

CALIFORNIA COASTAL COMMISSION

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W-10c



November 21, 2003

RECEIVED [unclear] COPY

To: Coastal Commissioners and Interested Parties

From: Peter Douglas, Executive Director
Charles Lester, Deputy Director
Chris Kern, District Manager

Subject: 2-03-03-EDD (Hayes/Callan)
Public hearing and Commission determination of appealability for purposes of applicable hearing and notice procedures, pursuant to California Code of Regulations, Title 14, Section 13569, for lot line adjustment at 482 Coronado Avenue in Miramar, APNs 048-025-110, -120, -130 and -140 in San Mateo County.

Summary of Staff Recommendation

On October 16, 2003, staff received a Notice of Final Local Decision from San Mateo County indicating that the County had granted a coastal development permit (CDP) to Sheila Hayes for a single-family residence and extension of sewer and water mains at 482 Coronado Avenue in Miramar. The County also approved a lot line adjustment for the project, but did not require a CDP for the purported lot line adjustment of APNs 048-025-110, -120, -130 and -140, because the County believes that lot line adjustments are exempt from CDP requirements under its certified local coastal program (LCP). Staff informed County Planning staff that the notice was deficient because the purported lot line adjustment is development that is not exempt from CDP requirements and because County approval of the purported lot line adjustment would be appealable to the Commission. Staff also informed the County of the administrative procedures provided by the Commission's regulations for resolution of questions or disagreements concerning whether a development is categorically excluded, non-appealable, or appealable for purposes of notice, hearing and appeals procedures (14 CCR §13569).

Staff recommends that the Commission determine that:

- The purported lot line adjustment is development that is not exempt from the CDP requirement of the Coastal Act; and
- Any action by the County authorizing the purported lot line adjustment is appealable to the Coastal Commission.

1.0 STAFF RECOMMENDATION

1.1 Motion

I move that the Commission reject the Executive Director's determination that the purported lot line adjustment approved by San Mateo County on September 24, 2003, for Assessor Parcels 048-025-110, -120, -130 and -140 requires a coastal development permit, and that any action by the County authorizing the purported lot line adjustment is appealable to the Coastal Commission.

Staff recommends a NO vote. Failure of this motion will result in: (1) the Commission upholding the Executive Director's determination that the purported lot line adjustment approved by San Mateo County on September 24, 2003 for San Mateo County Assessor Parcel Numbers 048-025-110, -120, -130 and -140 is subject to the coastal development permit requirements of the Coastal Act and that any action by San Mateo County authorizing the purported lot line adjustment is appealable to the Coastal Commission; and (2) the adoption of the following resolution and findings. A majority vote of the Commissioners present is required to pass the motion.

1.2 Resolution

The Commission, by adoption of the attached findings, determines consistent with Section 13569 of Title 14 of the California Code of Regulations, that the purported lot line adjustment approved by San Mateo County on September 24, 2003, for Assessor Parcels 048-025-110, -120, -130 and -140 requires a coastal development permit, and that any action by the County authorizing the purported lot line adjustment is appealable to the Coastal Commission.

2.0 Findings and Declarations

The Commission finds and declares as follows:

2.1 Authority for Determination

Title 14, Section 13569 of the California Code of Regulations states:

The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the local government at the time the application for development within the coastal zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or a local government has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

- (a) The local government shall make its determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development. The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.
- (b) If the determination of the local government is challenged by the applicant or an interested person, or if the local government wishes to have a Commission determination as to the

appropriate designation, the local government shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;

- (c) The executive director shall, within two (2) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable:
- (d) Where, after the executive director's investigation, the executive director's determination is not in accordance with the local government determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the local government request. [Emphasis added.]

After the certification of a LCP, the Commission is authorized to resolve disputes regarding the appropriate status of a development proposal (i.e., categorically excluded, non-appealable, or appealable). The purpose of the dispute resolution regulation is to provide for an administrative process for the resolution of disputes over the status of a particular project. Such a process is important when two agencies, here San Mateo County and the Coastal Commission each have either original or appellate jurisdiction over a given project. The Coastal Act was set up to give certified local governments the primary permitting authority over projects proposed in the Coastal Zone but to allow the Commission oversight authority over specified projects through the appeal process. Thus, the regulations anticipated that, from time to time, there may be disagreements regarding the status of a particular project and an administrative dispute resolution process would be preferable (and quicker) than the immediate alternative of litigation. The local government may initiate the request or forward a request made by an applicant or other interested party to the Commission's Executive Director. If the Executive Director and the local government are in disagreement over the appropriate processing status, as is the situation here, the Commission is charged with making the final determination.

The Executive Director is required to render a determination (14 CCR §13569(c)) and, in the event the local government disagrees with the opinion, "the Commission *shall* hold a hearing for purposes of determining the appropriate designation for the area" (14 CCR §13569(d)). It is clear from a plain reading of the regulation, that where the Executive Director and the local government disagree, participation is not optional and that if a system for dispute resolution is to be effective, the requirements for implementation of the process must be observed by both the Coastal Commission and the local government. The Executive Director has therefore made a determination, the County disagrees, and the Commission will hear the matter.

2.2 Local Government Action

On September 24, 2003, the San Mateo County Planning Commission approved a coastal development permit for single-family residence and sewer and water main extensions and approved a purported lot line adjustment for Assessor Parcel Numbers 048-025-110, -120, -130 and -140 (Exhibit 1). The County did not require a coastal development permit for the purported lot line adjustment.

The County Planning Department subsequently transmitted to Coastal Commission staff a Notice of Final Local Decision dated October 15, 2003 and received on October 16, 2003 (Exhibit 2) stating:

- On September 24, 2003, the County had conditionally approved a coastal development permit for the subject single-family residence and sewer and water main extensions;
- The County appeal period for this action ended on October 9, 2003; and
- The County action is not appealable to the Coastal Commission.

2.3 Appeal

On October 15, 2003, the Commission received an appeal of the subject lot line adjustment from Barbara K. Mauz (Exhibit 3). However, because the County's October 15, 2003 Notice of Final Local Decision did not notice the approved lot line adjustment as a development appealable to the Coastal Commission, a Coastal Commission appeal period for the subject development has not been opened. Instead, as further discussed below, Commission staff requested that the County correct the Notice of Final Local Decision to indicate that the County's action approving the lot line adjustment is appealable to the Commission. Because the County has not responded to this request, the Executive Director has initiated the dispute resolution process provided pursuant to CCR Section 13569 to first determine whether or not the County's action approving the lot line adjustment is appealable to the Commission. Ms. Mauz's appeal may or may not be considered by the Commission pending the outcome of this dispute resolution proceeding.

2.4 Executive Director's Determination

By letter dated October 21, 2003, Commission staff informed the County Planning Department that the Notice of Final Local Decision described above was erroneous because (Exhibit 4):

- A coastal development permit is required for the purported lot line adjustment and
- County approval of a lot line adjustment would be appealable to the Coastal Commission pursuant to Coastal Act Section 30603(a)(4) because lot line adjustments are not designated as the principal permitted use under the zoning ordinance or zoning district map.

Section 6328.3(r) of the County's certified LCP states that a project appealable to the Commission includes any approval required before a development may proceed. Section 6328.16 of the County's certified LCP specifies that actions by the County "may be appealed to the Coastal Commission in accordance with Coastal Commission regulations." Section 13571 of the Commission's regulations requires that a local government's Notice of Final Local Action on appealable development must include the procedures for appeal of the local decision to the Commission. Section 13571 of the Commission's regulations states:

(a) Notice After Final Local Decision. . . . Within seven (7) calendar days of a local government completing its review and meeting the requirements of Section 13570, the local government shall notify by first class mail the Commission and any persons who specifically requested notice of such action . . . of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.

The October 15, 2003 County Notice of Final Local Decision did not meet the requirements for such notice specified by Section 13571 of the Commission's regulations.

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Where the County’s notice of final local action does not meet the requirements of Section 13571, the local government action is not effective. Section 13572 of the Commission’s regulations state that:

A local government’s final decision on an application for an appealable development shall become effective after the ten (10) working day appeal period to the Commission has expired unless either of the following occur:

...

(b) the notice of final local government action does not meet the requirements of Section 13571. [Emphasis added.]

Section 13571 of the Commission’s regulations requires that a Notice of Final Local Action provide the procedures for appeal of the local decision to the Commission. The County’s Notice of Final Local Action did not contain these required procedures. Consequently, in accordance with Section 13572 of the Commission’s regulations, the County’s Notice of Final Local Decision was defective and the County’s final action on the subject lot line adjustment remains ineffective.

2.5 Commission Determination

The Commission will defer resolution of the issues regarding the legal status of the subject lot or lots until after the County has processed a CDP application for the purported lot line adjustment, which would be appealable to the Commission. Accordingly, the issues before the Commission at this time are:

- Is a CDP required for the purported lot line adjustment; and
- Is approval by the County of the purported lot line adjustment appealable to the Coastal Commission?

2.5.1 Coastal Development Permit Requirement

Coastal Act Section 30600 states in relevant part:

(a) Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit. [Emphasis added.]

Lot Line Adjustments are “Development” under the Coastal Act

Coastal Act Section 30106 defines “development” as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change

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in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. [Emphasis added.]

In the past, certain parties have contended that the coastal development permit requirement of Coastal Act Section 30600 does not apply to lot line adjustments because lot line adjustments are not "development" under the Coastal Act. This question has been resolved in the Commission's favor by the California Court of Appeal (*La Fe v. Los Angeles County* (1999) 73 Cal.App.4th 231).

The Court of Appeal held in its published decision in *La Fe* that lot line adjustments are development as defined in Section 30106 both because lot line adjustments constitute a division of land and because lot line adjustments result in a change in the density or intensity of use of land. The Court of Appeal states:

Specifically, "development" means "change in the density or intensity of use of land, including but not limited to, subdivision ..., and any other division of land, including lot splits...." The Legislature's stated intent was to grant the commission permit jurisdiction with respect to any changes in the density or intensity of use of land, including any division of land. Section 30106 by its terms recognizes that a subdivision of land or a lot split can result in changes in the density of intensity of use of property. A lot line adjustment can, as here, have the same effect. More to the point though, section 30106 explicitly applies to a "subdivision ... and any other division of land..." A lot line change constitutes a "division of land." The key point is that section 30106 applies to a "division of land" and such occurred here. [Emphasis added.]

...

[P]laintiff's proposed adjustment of the lot lines between parcels of land that they owned constituted development that fell within the permit jurisdiction of the California Coastal Commission under the California Coastal Act of 1976...

The broadly worded Coastal Act definition of development is intended to encompass a broader range of land divisions than those covered by the Map Act. Adjusting the boundary of a lot divides land not previously divided, even though the number of parcels is not increased. In addition, this change in the configuration of parcels affects the density, intensity, location, or character of subsequent development allowable on the resulting parcels. Indeed, such changes are the reason lot line adjustments are undertaken. These kinds of changes in development potential are the same as those reviewed by the Commission in connection with subdivisions, lot splits, and other land divisions.

The *La Fe* decision was published on June 30, 1999, more than four years prior to the Planning Commission's locally appealable decision on the subject lot line adjustment on September 24, 2003. Thus, to the extent that the County may have relied on the position that lot line adjustments are not development as defined under the Coastal Act in determining the purported

lot line adjustment to be exempt from coastal development permit requirements, such determination is contrary to the prior published decision of the California Court of Appeal in *La Fe*.

LCP Permit Exemption for Lot Line Adjustments is Invalid

San Mateo County Counsel contends that lot line adjustments are exempt from coastal development permit requirements in the San Mateo County Coastal Zone pursuant to County Zoning Code Section 6328.5, which provides in relevant part:

SECTION 6328.5. EXEMPTIONS. The projects listed below shall be exempt from the requirement for a Coastal Development Permit. Requirements for any other permit are unaffected by this section.

...

(i) Lot line adjustments not resulting in an increase in the number of lots.

The County contends that because Zoning Code Section 6328.5(i) is contained in the certified LCP, lot line adjustments are exempt from coastal development permit requirements.

The Commission does not dispute that San Mateo County Zoning Code Section 6328.5(i) states that lot line adjustments not resulting in an increase in the number of lots are exempt from coastal development permit requirements, nor that Section 6328.5(i) is contained in the County's certified LCP. However, the LCP must be interpreted in light of and consistent with the Coastal Act, its implementing regulations and any judicial rulings affecting the implementation of those provisions. Examples of such judicial rulings include *La Fe* as well as *Nollan v CCC* (1987) 483 US 825, *Dolan v. City of Tigard* (1994) 512 U.S. 374, *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, *Sierra Club v. CCC* (1993) 15 Cal Rptr2d 779, and *Bolsa Chica Land Trust v. Superior Court* (1999) 83 Cal. Rptr. 850. The Commission therefore finds that lot line adjustments are not exempt from coastal development permit requirements because Zoning Code Section 6328.5(i) is in conflict with state law. As stated by the Court of Appeal in *La Fe*, the requirement that persons who undertake development must obtain a coastal development permit or waiver is one imposed by law, not by the Commission:

The requirement that plaintiffs obtain a coastal development permit or waiver [for a lot line adjustment] was one imposed by law, not by the county.

As also stated by the Court of Appeal in *La Fe*, "development" as defined in section 30106 includes lot line adjustments because section 30106 explicitly applies to any change in the density or intensity of use of land, including a subdivision and any other division of land including lot splits and because a lot line adjustment is a division of land.

Accordingly, after certification of an LCP, certain development review authority is delegated to the local government, but the permit requirement remains one of state law. Certification of a local government's LCP does not empower the local government to circumvent the permit requirement of the Coastal Act. Neither the County through the adoption of a zoning ordinance nor the Commission through the certification of an LCP can exceed the authority granted to it under the Coastal Act either to regulate or to exempt from regulation development in the Coastal Zone. In fact, in accordance with Coastal Act Sections 30512 through 30513, the Commission's review of a LCP is limited to a determination that the coastal development permit review standards submitted by the local government do or do not conform with the requirements of

Chapter 3 of the Coastal Act. Thus, the Commission's review of a LCP does not extend to the Chapter 7 provisions of the Coastal Act that establish coastal development permit requirement and coastal development permit exemptions.

Chapter 7 of the Coastal Act provides for specific limited exemptions from the permit requirement of Section 30600(a). These exemptions are for emergency work that meets the criteria described in Sections 30600(e)(1) and 30600(e)(2) and for development described in Coastal Act Sections 30610 and 30610.1. Both the Commission's and the County's authority to exempt development from the coastal development permit requirement is strictly limited to that authorized by Coastal Act Sections 30600(e) and 30610.

None of the permit exemptions contained in Coastal Act Sections 30600(e), 30610, and 30610.1 exempt lot line adjustments or any other type of land division. The one possible mechanism through which lot line adjustments may be excluded from the permit requirements of the Coastal Act is through the adoption of a categorical exclusion order in accordance with Section 30610(e). However, categorical exclusions may not be adopted as part of the LCP process because the Commission serves as a lead agency rather than a functionally equivalent agency for purposes of CEQA when adopting a categorical exclusion and the categorical exclusion is subject to different voting requirements than apply to certification of a LCP.

Coastal Act Section 30610 states in relevant part:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

...

(e) Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program. [Emphasis added.]

San Mateo County has an approved categorical exclusion order that excludes from coastal development permit requirements specific categories of development within a specifically defined geographical area. However, the categories of development described in the County's exclusion order do not include lot line adjustments or any other type of land division. Thus, as the County acknowledges, lot line adjustments are not excluded from the coastal development permit requirement under the County's categorical exclusion order. The Coastal Act provides no other authority by which lot line adjustments may be determined exempt from the coastal development permit requirement. Therefore, the Commission finds that lot line adjustments are not exempted from the coastal development permit requirements of the Coastal Act by Zoning Code Section 6328.5(i).

In recognition that lot line adjustments are in fact subject to regulation under the Coastal Act and certified LCPs, the State Legislature amended Section 66412(d) of the State Government Code effective January 1, 2002, adding the following provision:

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A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable coastal plan, and zoning and building ordinances. [Emphasis added.]

The Commission understands the term “any applicable coastal plan” as used in Government Code Section 66412(d) to refer to the San Mateo County certified LUP. The legislature authorizes local governments to require the County to review lot line adjustments for conformity with the LUP as provided above in recognition of the fact that lot line adjustments are not exempt from regulation under the Coastal Act. The Commission therefore finds that the recently enacted amendment to Government Code Section 66412(d) further supports the Executive Director’s determination that lot line adjustments are not exempted from the coastal development permit requirements of the Coastal Act by Zoning Code Section 6328.5(i).

2.5.2 Appealability

Coastal Act Section 30603(a) states in relevant part:

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

...

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

The property affected by the purported lot line adjustment is zoned R-1/S-17/DR. As with other divisions of land, lot line adjustments are not designated as the principal permitted use under the applicable San Mateo County Zoning District (R-1/S-17/DR) or the applicable zoning district map (Exhibit 5). Section 30604(a)(4) confers appellate jurisdiction over any “development” approved by a coastal county that is not designated as the principal permitted use under a county’s approved zoning ordinance (Exhibit 6). As discussed above, a lot line adjustment constitutes development under Section 30106 of the Coastal Act but a lot line adjustment is not designated as the principal permitted use in the R-1/S-17/DR Zoning District (Exhibit 5). The County’s zoning ordinance fails to designate one principally permitted use for the R-1/S-17/DR Zoning District. In addition, none of the uses enumerated in the R-1/S-17/DR Zoning District include lot line adjustments (Exhibit 5). Because a lot line adjustment constitutes development but is not identified as the principal permitted use of the R-1/S-17/DR Zoning District, any approval of a coastal development permit for a lot line adjustment in the R-1/S-17/DR zone is appealable to the Coastal Commission. Therefore, the Commission finds that County authorization of the purported lot line adjustment is appealable to the Commission pursuant to Section 30603(a)(4) of the Coastal Act.

The County argues that lot line adjustments are not listed as the principal permitted use in any County zoning districts because the authority for lot line adjustments is derived from the Subdivision Map Act and not from the County’s zoning power and that lot line adjustments are not properly considered uses of property in the zoning context. However, the County’s position ignores the fact that Section 30603(a)(4) of the Coastal Act specifies that “*any development* approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance” is appealable to the Commission. As stated above, lot line adjustments are

development and they are not identified as the principal permitted use in the certified zoning ordinance.

In addition, the County's argument that lot line adjustments are not listed as the principally permitted use in any zoning district because lot line adjustments are not properly considered uses also fails because the County's zoning ordinance itself lists divisions of land as a use requiring a use permit. See for example zoning code section 6227(b)(6) which states:

The following uses shall be permitted in the Community Open Space Conservation District subject to the securing of a use permit in each case:

...

6. Division of land, . . .

The County also asserts that lot line adjustments are not appealable to the Coastal Commission because County approval of a lot line adjustment is not an action on a coastal development permit application. However, as stated above, in exercising its authority under 14 CCR §13569, the Commission has determined that the purported lot line adjustment constitutes development that requires a coastal development permit that is appealable to the Commission. Thus, whether or not the Commission considers the County's action on the lot line adjustment as an action on a coastal development permit application, the Commission has separately determined that the purported lot line adjustment constitutes development that requires a coastal development permit and that such County approval of the purported lot line adjustment is appealable to the Commission.

2.5.3 Review of Lot Line Adjustments in the Coastal Zone is an Issue of Statewide Significance

Lot line adjustments can result in a change in the density or intensity of use of land in a manner that conflicts with the resource and/or public access protection policies of a certified LCP and the Coastal Act.

In *La Fe*, the Commission denied a coastal development permit application for a lot line adjustment because it would have made all of the affected lots accessible to a public street, but the street was insufficient to provide access to the developed lots by fire fighting equipment. A lot line adjustment could also result in the reconfiguration of property boundaries to create a parcel entirely covered by wetlands or environmentally sensitive habitat such that the resulting parcel could not be developed consistent with the wetland or ESHA protection policies of the Coastal Act or a certified LCP. Without authority to review lot line adjustments under the coastal development permit requirements of the Coastal Act, the Commission or a local government would be unable to prevent such a result and could be forced to approve development in a wetland or ESHA to avoid a regulatory taking of private property.

For these reasons, the Commission finds that the review for conformity with policies of the County's LCP and the Coastal Act afforded by the coastal development permit process is a matter of statewide significance.

2.6 Conclusion

The Commission finds that Section 30603(a)(4) confers the Commission with appellate jurisdiction over any "development" that is not listed as the principal permitted use in the County's certified Local Coastal Program. Because the purported lot line adjustment constitutes

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“development” under 30106 of the Coastal Act and because lot line adjustments are not listed as the principal permitted use in the County’s Certified Local Coastal Program, the purported lot line adjustment is development appealable to the Commission pursuant to Section 30603(a)(4) of the Coastal Act.

Section 6328.16 of the County’s certified Local Coastal Program specifies that actions by the County “may be appealed to the Coastal Commission in accordance with Coastal Commission regulations.” In conformity with Sections 13569, 13570, 13571 and 13572 of the Commission’s regulations and Sections 6328.11.1 and 6328.16 of the County’s certified Local Coastal Program, until the County issues a corrected Final Local Action Notice indicating that: (1) the subject lot line adjustment is development requiring a coastal development permit; (2) the County’s action approving the lot line adjustment is appealable to the Coastal Commission; and (3) providing the procedures for appeal of the local decision to the Commission, the lot line adjustment is not legally authorized.





EXHIBIT NO. 1
APPLICATION NO. 2-03-03-EDD
HAYES/CALLAN
(Page 1 of 23 pages)

Please reply to: **Gabrielle Rowan**
(650) 363-1829

PROJECT FILE

September 29, 2003

**ENVIRONMENTAL
SERVICES
AGENCY**

Thomas Callan
2790 Junipero Serra Boulevard
Daly City, CA 94015

Dear Mr. Callan:

Agricultural
Commissioner/ Sealer of
Weights & Measures

Subject: File Number 2002-00115
Location: 482 Corodado Avenue, Miramar
APN: 048-025-110, 120, 130, and 140

Animal Control

Cooperative Extension

Fire Protection

LAFCo

Library

Parks & Recreation

Planning & Building

On September 24, 2003, the San Mateo County Planning Commission considered your appeal of a decision by the Planning Director to approve a Coastal Development Permit and Coastsides Design Review pursuant to Sections 6328.4 and 6565.7, respectively, of the San Mateo County Zoning Regulations, and a Lot Line Adjustment pursuant to Section 7124 of the County Subdivision Regulations, for a new 4,233 sq. ft. residence including a 637 sq. ft. attached garage and the installation of a new fire hydrant and the extension of 120 linear feet of water and sewer main lines on a parcel located at 482 Coronado Avenue in the unincorporated Miramar area of San Mateo County. The Lot Line Adjustment revises the parcel boundary and effectively 'swaps' lot 23 (048-025-110) with lot 22 (048-025-120).

Commissioners:

Based on information provided by staff and evidence presented at the hearing the Planning Commission denied the appeal, upheld the decision of the Planning Director, approved the Coastal Development Permit, Coastsides Design Review and Lot Line Adjustment, made the findings and adopted conditions of approval as attached.

David Bomberger

William Wong

Bill Kennedy

Ralph Nobles

Jon Silver

Any interested party aggrieved by the determination of the Planning Commission has the right of appeal to the Board of Supervisors within ten (10) business days from such date of determination. The appeal period for this matter will end at 7:00 p.m. on Tuesday, October 14, 2003.

PLANNING COMMISSION

Thomas Callan
September 29, 2003
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If you have questions regarding this matter, please contact the Project Planner listed above.

Sincerely,



Kan Dee Rud
Planning Commission Secretary
Pcd0924n_5kr.doc

cc: Department of Public Works
Building Inspection
Environmental Health
CDF
HMB Fire Protection District
Assessor
California Coastal Commission
Sheila Hayes, Owner
Barbara Mauz
Nicholas Licato
Leonard Woren
James Brennan
MCC

Thomas Callan
September 29, 2003
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Attachment A

County of San Mateo
Environmental Services Agency
Planning and Building Division

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN2002-00115

Hearing Date: September 24, 2003

Prepared By: Gabrielle Rowan

Adopted By: Planning Commission

FINDINGS

For the Environmental Review, Found:

1. That this project has been found to be categorically exempt under Section 15303 of the California Environmental Quality Act, relating to the construction of new structures. A Notice of Exemption will be filed and posted for review forthwith.

Regarding the Coastal Development Permit, Found:

2. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, polices, requirements and standards of the San Mateo County Local Coastal Program.
3. That the project conforms to the specific findings of the San Mateo County Local Coastal Program.
4. That the number of building permits for construction of single-family residences other than for affordable housing issued in the calendar year does not exceed the limitations of LCP Policies 1.22 and 1.23 as stated in Section 6328.15.

For the Coastside Design Review, Found:

5. That this project has been reviewed under and found to be in compliance with the Design Review Standards for Coastside Districts, Section 6565.17 of the San Mateo County Zoning Regulations.

For the Lot Line Adjustment, Found:

6. That the processing of the lot line adjustment is in full conformance with Government Code Section 66412(d) and Section 7124 of the San Mateo County Subdivision Regulations.

CONDITIONS OF APPROVAL

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission. Minor revisions or modifications to the project may be made subject to the review and approval of the Planning Administrator.
2. If after two (2) years from the date of approval, the applicant has not obtained all other necessary permits and made substantial progress toward completing the proposed development, the Coastal Development Permit, Coastside Design Review and Lot Line Adjustment will expire. These may be extended beyond two years if the applicant requests an extension in writing and submits payment of applicable extension fees at least sixty (60) calendar days before the expiration date.
3. To ensure the height of the structure and/or structures do not exceed the maximum height permitted, staff requires the applicant to adhere to the height verification procedure during the building permit process. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site. The applicant shall maintain the datum point so that it will not be disturbed by the proposed construction activities until final approval of the building permit.
 - a. The datum point and its elevation shall be shown on the submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural grade or to the grade of the site (finished grade).

- b. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades.
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 - d. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case may be) for the lowest floor(s), the applicant shall provide the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height – as constructed – is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.
4. No site disturbance shall occur, including any grading or tree removal, until a valid building permit has been issued.
 5. The colors submitted with the application and reviewed by the Design Review Committee are approved. Color verification by a building inspector shall occur in the field after the applicant has painted the structure the approved color and installed the approved roof but before the applicant schedules a final inspection. The proposed colors to be used for external surfaces should ensure that the development blends in well to the surroundings.
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8. During project construction, the applicant 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 by:
 - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and May 1.
 - b. 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.
 - c. Storing, handling and disposing of construction materials and wastes so as to avoid their entry to a local storm drain system or water body.
 - d. Avoiding cleaning, fueling or maintaining vehicles on site, except in an area designated to contain and treat runoff.
 - e. Using filtration or other measures to remove sediment from dewatering effluent.
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9. The applicant shall include an erosion and sediment control plan on the plans submitted for the building permit. The plan shall identify the type and location of erosion control devices to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
10. All new power and telephone utility lines from the street or nearest existing utility pole to the main dwelling and/or any other structure on the property shall be placed underground.
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12. Noise levels produced by the proposed construction activity shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
13. The applicant shall ensure that if during construction or grading, any evidence of archaeological traces (human remains, artifacts, concentration of shale, bone, rock, ash) is uncovered, then all construction and grading within a 30-foot radius shall be halted, the Planning Division shall be notified, and the applicant shall hire a qualified archaeologist to assess the situation and recommend appropriate measures. Upon review of the archaeologist's report, the Planning Administrator, in consultation with the applicant and the archaeologist, will determine steps to be taken before construction or grading may continue.

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14. The applicant shall obtain a building permit for the proposed work and shall comply with all application requirements of the Building Inspection Section, the Department of Public Works and the respective Fire Authority.
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 - c. If a water main extension/upgrade is required to provide sufficient water for fire suppression (sprinklers, hydrant, etc.), then the applicant must submit verification from the water district that a contract and agreement have been agreed to for this extension/upgrade.

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- e. A driveway plan and profile will be required.

Department of Public Works

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- 18. The applicant shall prepare a plan indicating the proposed method of sewerage for this new residence.
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- 20. The applicant shall submit detailed plans showing the installation of the necessary energy and communication utilities to the new residence. Said plans shall be submitted to the Department of Public Works and the Planning Division for review.
- 21. 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.

22. The applicant shall submit to the project planner (for recordation) legal descriptions of reconfigured parcels. The project planner will review these descriptions and forward them to Public Works for approval.
23. The applicant shall submit, to the project planner, a copy of the unrecorded Grant Deeds (of only the parcels to be exchanged) for review and approval prior to transfer of ownership.

Half Moon Bay Fire Protection District

24. Prior to the final of the building permit, a fire district approved fire hydrant (Clow 960) must be located within 250 feet of the proposed single-family dwelling unit measured by way of driveable access. The hydrant must produce a minimum fire flow of 1,000 gallons per minute at 20 pounds per square inch residual pressure for two hours. The desired location for the required fire hydrant is between Parcels 048-025-070 and -036.
25. As per County Ordinance, the applicant is required to install an automatic fire sprinkler system within the proposed or improved dwelling. All areas that are accessible for storage purposes shall be equipped with fire sprinklers. The plans for this system must be submitted with the building application plans to the San Mateo County Planning and Building Division. A building permit will not be issued until plans are received, reviewed and approved. Upon submission of plans, the County will forward a complete set to the Half Moon Bay Fire District for review. The fee schedule for automatic fire sprinkler systems shall be in accordance with Half Moon Bay Ordinance No. 13. Fees shall be paid prior to plan review.
26. An exterior bell and interior horn/strobe are required to be wired into the required flow switch on your sprinkler system. The bell, horn/strobe and flow switch, along with the garage door opener, are to be wired into a separate circuit breaker at the main electrical panel and labeled.
27. As per the California Building Code and State Fire Marshal regulations, the applicant is required to install State Fire Marshal approved and listed smoke detectors which are hardwired, interconnected and have battery backup. These detectors are required to be placed in each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. A minimum of one detector shall be placed on each floor. Smoke detectors shall be test and approved prior to the building final.
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letters/numerals for permanent address signs shall be of an adequate size and a color, which is contrasting with the background. In no case shall letters/numerals be less than 4 inches in height with a minimum of 3/14-inch stroke. Such letters/numerals shall be internally illuminated and facing the direction of access.

29. The roof covering of every new building or structure, and materials applied as part of a roof covering assembly, shall have a minimum fire rating of Class 'B' or higher as defined in the current edition of the California Building Code.
30. The applicant must have a maintained all-weather surfaced road for ingress and egress of fire apparatus. The San Mateo County Department of Public Works and the Half Moon Bay Fire District Ordinance shall set road standards. Dead-end roads exceeding 150 feet shall be provided with a turnaround in accordance with Half Moon Bay Fire District specifications. Road width shall not be less than 20 feet.
31. The Half Moon Bay Fire District requires a minimum clearance of 30 feet, or to the property line of all flammable vegetation to be maintained around all structures by the property owner. This does not include individual species or ornamental shrubs and landscaping.
32. All new single-family dwellings, including duplexes, are required to form a Community's Facilities District prior to the issuance of an occupancy permit. Please be aware that this is a legal process that takes a minimum of three months to complete. For details, please contact the Half Moon Bay Fire District Administration Office.

COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY
PLANNING AND BUILDING DIVISION

RECEIVED

SEP 18 2003

CALIFORNIA
COASTAL COMMISSION

DATE: September 24, 2003

TO: Planning Commission

FROM: Planning Staff

SUBJECT: STAFF REPORT ADDENDUM: Consideration of an appeal of a decision by the Planning Director to approve a Coastal Development Permit and Coastsides Design Review, pursuant to Sections 6328.4 and 6565.7, respectively, of the San Mateo County Zoning Regulations, and a Lot Line Adjustment, pursuant to Section 7124 of the County Subdivision Regulations, for a new 4,233 sq. ft. residence including a 637 sq. ft. attached garage, and including the installation of a new fire hydrant and the extension of 120 linear feet of water and sewer main lines on a parcel located at 482 Coronado Avenue in the unincorporated Miramar area of San Mateo County. This project is not appealable to the California Coastal Commission.

County File Number: PLN 2002-00115 (Hayes)

RECOMMENDATION

Deny the appeal and uphold the decision of the Planning Director to approve the Coastal Development Permit, Coastsides Design Review and Lot Line Adjustment, County File Number PLN 2002-00115, by making the required findings and adopting the conditions of approval listed in Attachment A.

PROPOSAL

This item was continued from the June 11, 2003 Planning Commission meeting in order to allow time for both parties to submit a lot line adjustment application to prevent two substandard parcels continuing to exist following the proposed development.

The applicant and appellant submitted a lot line adjustment application on August 6, 2003. The proposed lot line adjustment effectively swaps Lot 23 (048-025-110) with Lot 22 (048-025-120) as per the discussion at the last Planning Commission hearing. The proposed development site for the new house will still be a flag configuration and will still be 11,550 sq. ft. The design of the house and driveway has been revised to relocate the proposed driveway adjacent to the open space at the end of Coronado Avenue and to re-orientate the garage to face the street.

The adjacent parcels will be 3,850 sq. ft. and 4,400 sq. ft., respectively. As a condition of this approval, these will be required to be merged to create just one substandard parcel of 8,250 sq. ft. This will significantly improve the current non-conforming situation of two legal substandard parcels.

This revised application has been reviewed by the Midcoast Community Council and they stated that they have no further issue with the project.

Planning staff considers that this revised proposal complies with the applicable General Plan Policies, the Local Coastal Program, the Zoning Regulations and the Subdivision Regulations and, therefore, recommends that the Planning Commission deny the appeal and uphold the decision of the Planning Director to approve the Coastal Development Permit, Coastside Design Review and Lot Line Adjustment by making the required findings and adopting the conditions of approval as listed in Attachment A.

ATTACHMENTS

- A. Revised Recommended Findings and Conditions of Approval
- B. Lot Line Adjustment Plan
- C. Revised Site Plan
- D. Revised Elevations

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County of San Mateo
Environmental Services Agency
Planning and Building Division

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2002-00115

Hearing Date: September 24, 2003

Prepared By: Gabrielle Rowan

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That this project has been found to be categorically exempt under Section 15303 of the California Environmental Quality Act, relating to the construction of new structures. A Notice of Exemption will be filed and posted for review forthwith.

Regarding the Coastal Development Permit, Find:

2. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, polices, requirements and standards of the San Mateo County Local Coastal Program.
3. That the project conforms to the specific findings of the San Mateo County Local Coastal Program.
4. That the number of building permits for construction of single-family residences other than for affordable housing issued in the calendar year does not exceed the limitations of LCP Policies 1.22 and 1.23 as stated in Section 6328.15.

For the Coastsides Design Review, Find:

5. That this project has been reviewed under and found to be in compliance with the Design Review Standards for Coastsides Districts, Section 6565.17 of the San Mateo County Zoning Regulations.

For the Lot Line Adjustment, Find:

6. That the processing of the lot line adjustment is in full conformance with Government Code Section 66412(d) and Section 7124 of the San Mateo County Subdivision Regulations.

CONDITIONS OF APPROVAL

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission. Minor revisions or modifications to the project may be made subject to the review and approval of the Planning Administrator.
2. If after two (2) years from the date of approval, the applicant has not obtained all other necessary permits and made substantial progress toward completing the proposed development, the Coastal Development Permit, Coastside Design Review and Lot Line Adjustment will expire. These may be extended beyond two years if the applicant requests an extension in writing and submits payment of applicable extension fees at least sixty (60) calendar days before the expiration date.
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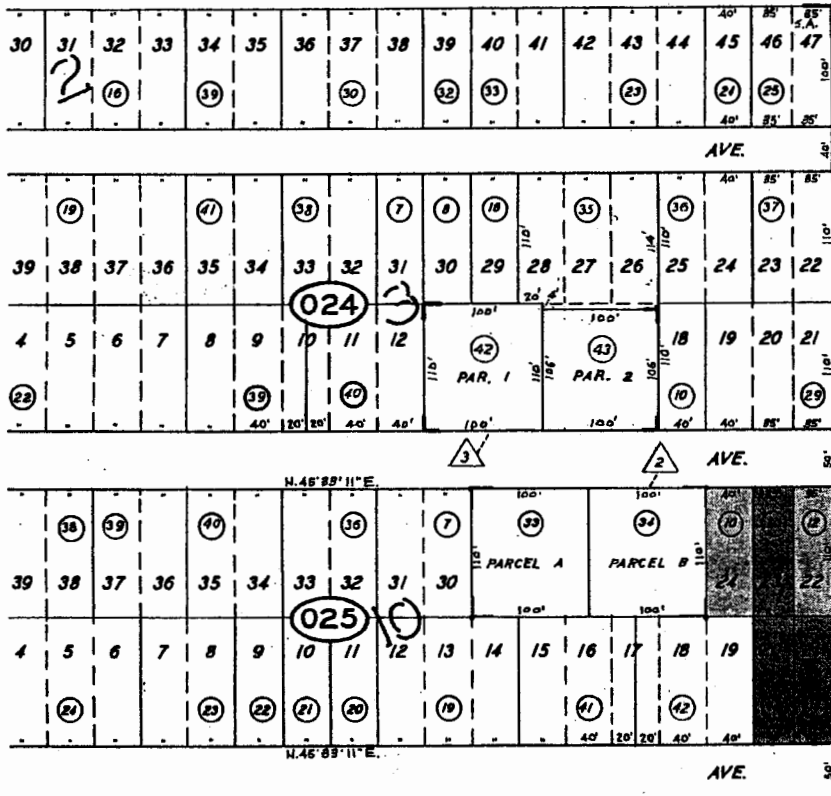
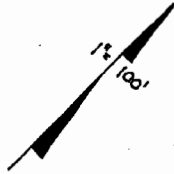
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BK. 47
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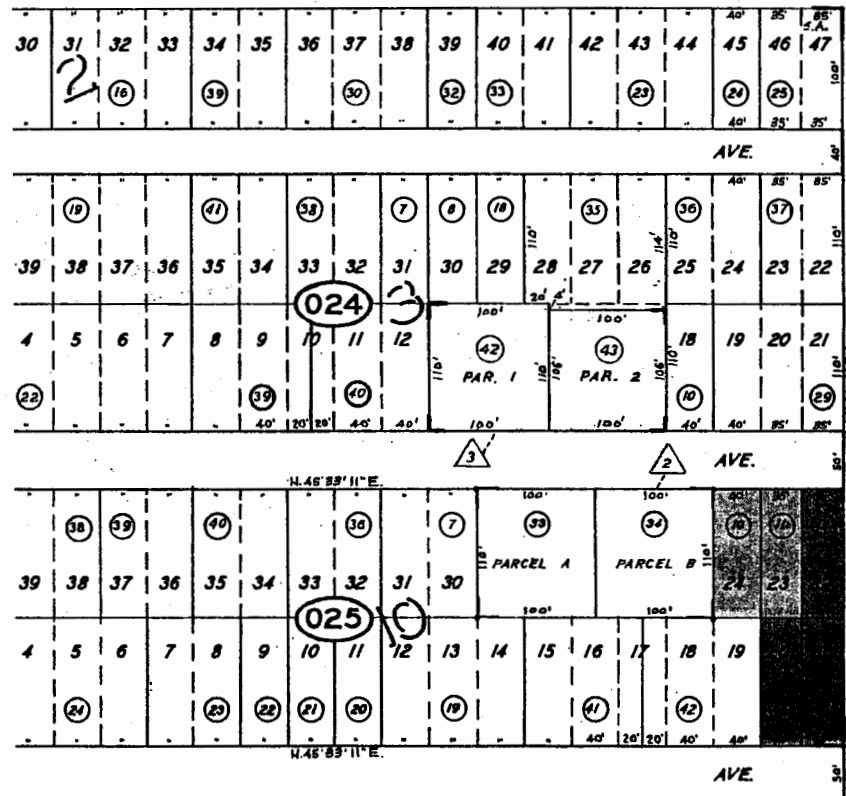
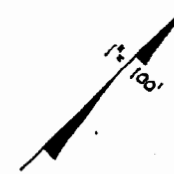
BEFORE LOT LINE ADJUSTMENT

BK. 47
33

- 3 PARCEL MAP VOL 72/43
- 2 PARCEL MAP VOL 67/2
- 1 SHORE ACRES RSM 3/95

7-19-8.

48-2



BK. 47
33

AFTER LOT LINE ADJUSTMENT

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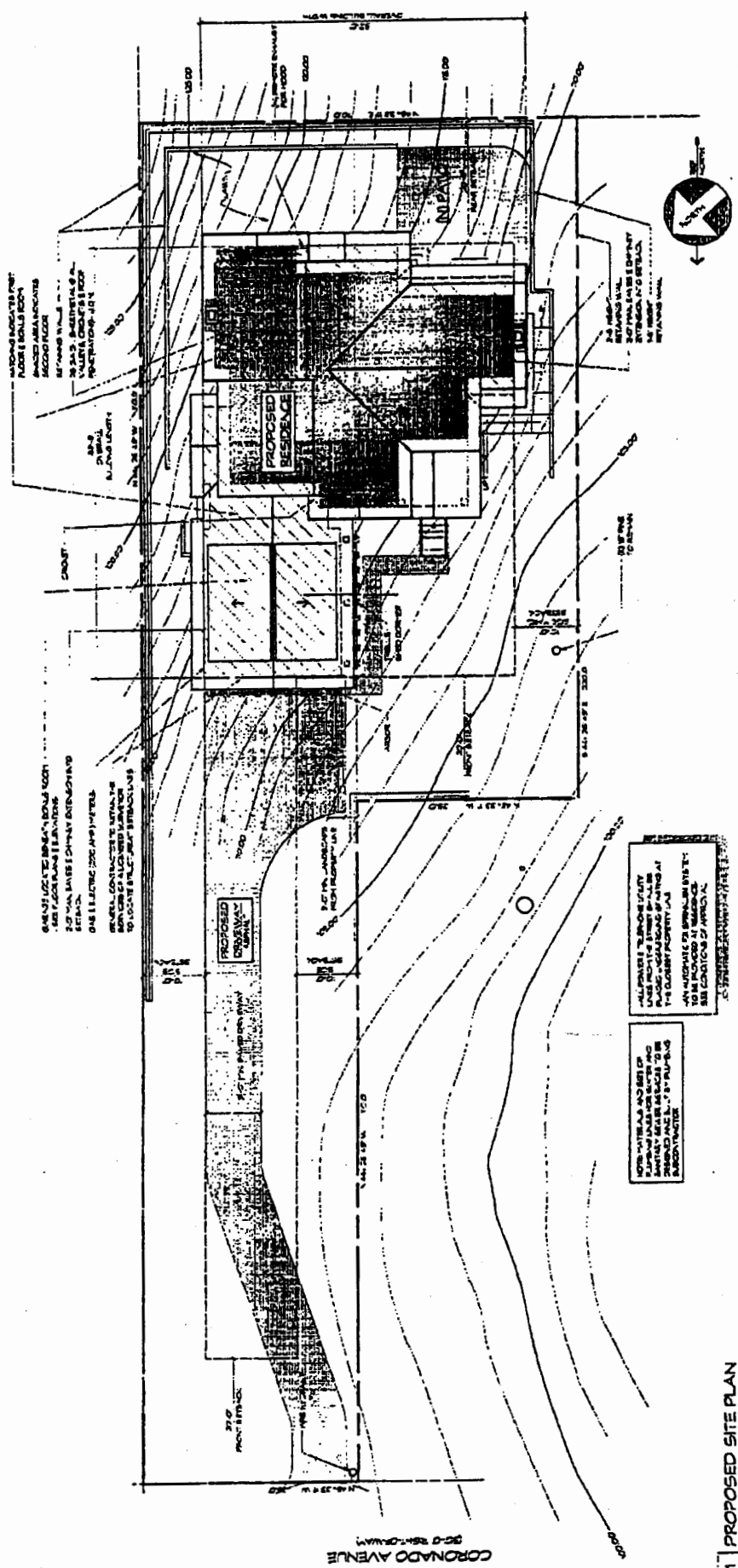
San Mateo County Planning Commission Meeting

Applicant: **HAYES/CALLAN**

Attachment: **B**

File Numbers: **PLN2002-00115**





1 PROPOSED SITE PLAN

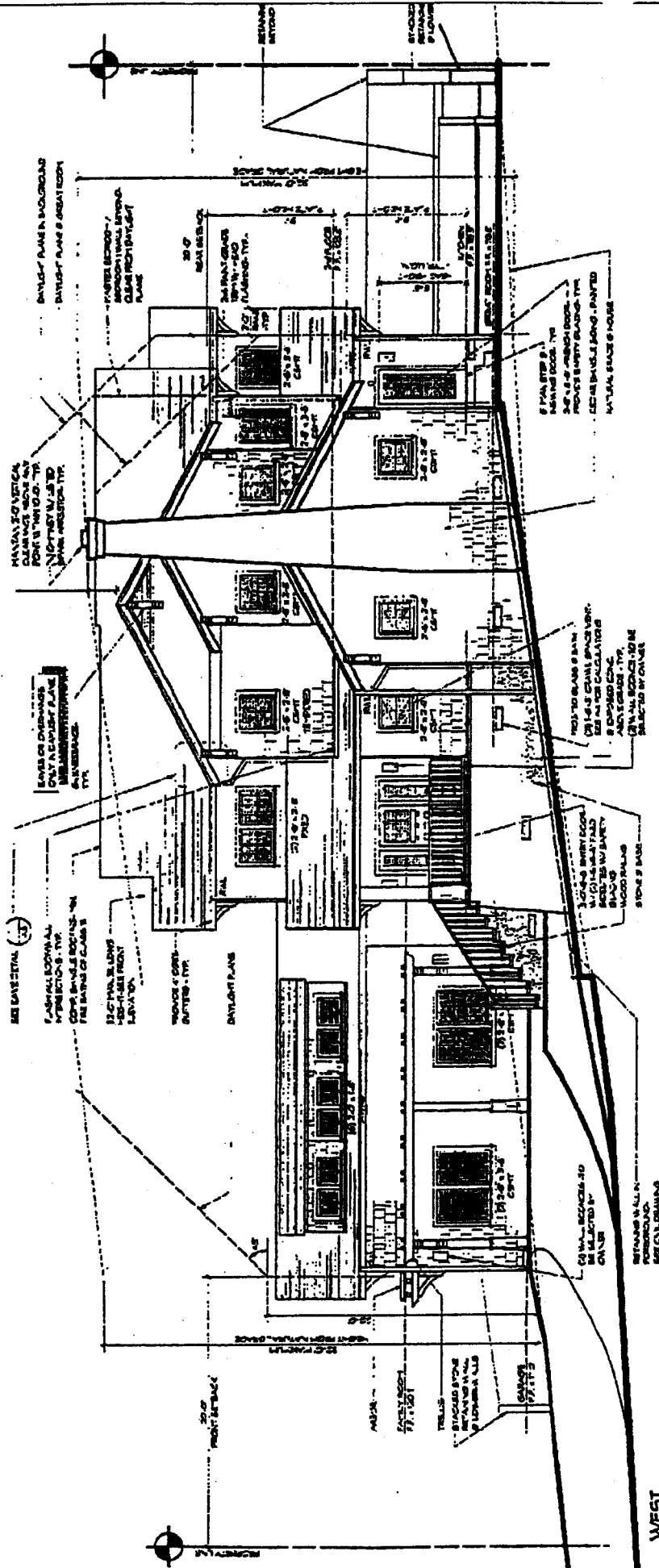
San Mateo County Planning Commission Meeting

Applicant: **Hayes/Callan**

File Numbers: **PLN2002-00115**

Attachment: **C**



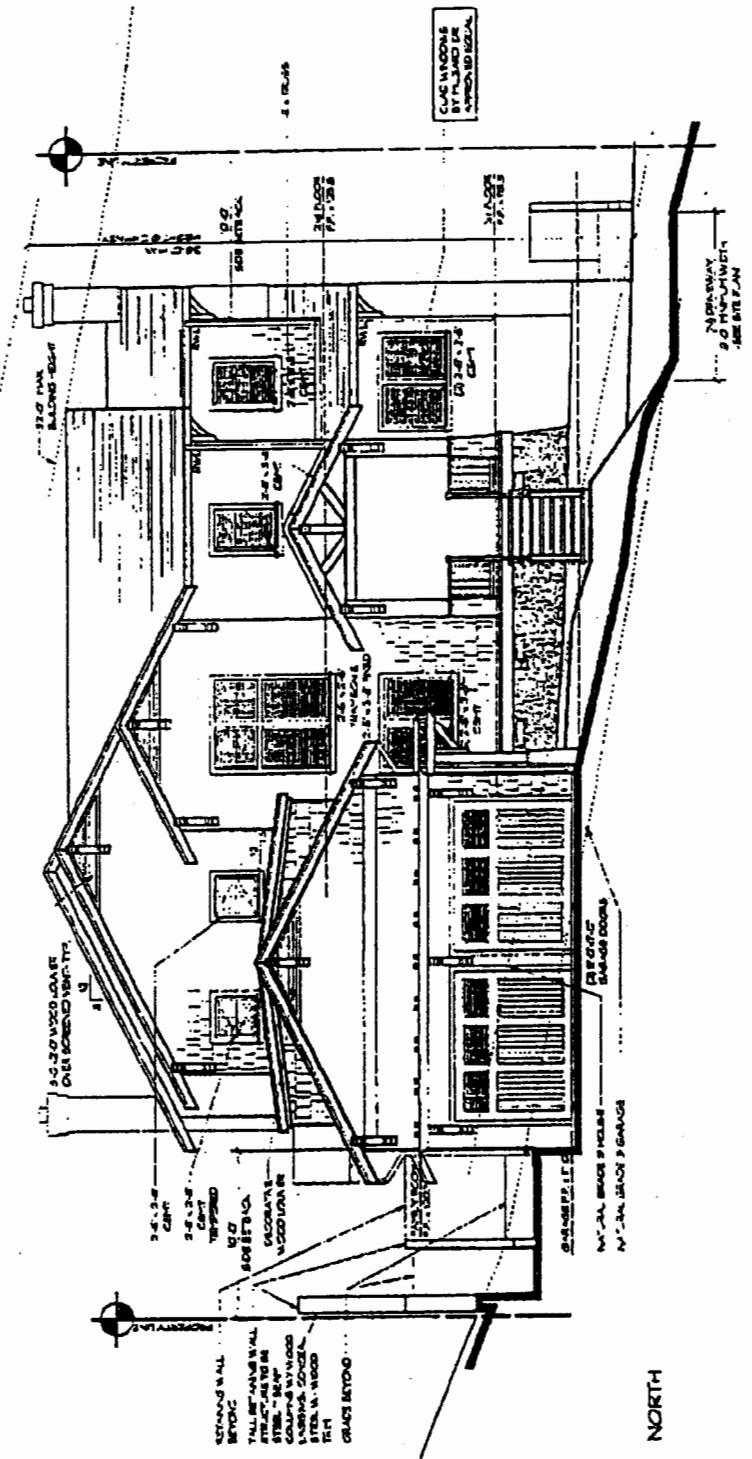


San Mateo County Planning Commission Meeting

Applicant: **Hayes/Callan**

File Numbers: **PLN2002-00115**

Attachment: **D**



San Mateo County Planning Commission Meeting

Applicant: **Hayes/Callan**

File Numbers: **PLN2002-00115**

Attachment: **D**

Planning and Building Division ■ 455 County Center ■ Redwood City
California 94063 ■ Planning: 650/363-4161 ■ Building: 650/599-7311 ■ Fax: 650/363-4849

October 15, 2003

RECEIVED

OCT 16 2003

CALIFORNIA
COASTAL COMMISSION

NOTICE OF FINAL LOCAL DECISION
Pursuant to Section 6328.11.1(f) of the San Mateo County Zoning Regulations

EXHIBIT NO.	2
APPLICATION NO.	2-03-03-EDD
HAYES/CALLAN	

California Regional Coastal Commission
North Central Coastal District
45 Fremont Street, Suite 2000
San Francisco, CA 94105

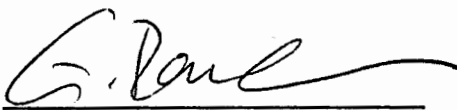
County File No. : PLN2002-00115

Applicant Name: SHEILA HAYES
Owner Name: SHEILA HAYES

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on **September 24, 2003**. The County appeal period ended on **October 9, 2003**. Local review is now complete.

This permit **IS NOT** appealable to the California Coastal Commission.

If you have any questions about this project, please contact GABRIELLE ROWAN at (650) 363-4161.



GABRIELLE ROWAN
Project Planner

CALIFORNIA COASTAL COMMISSION

FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 804-8200



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Barbara K. May
P.O. Box 1284
El Granada, CA 94018 (650) 726-4012
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Mateo County

2. Brief description of development being appealed:

PLN 2002-00115 - Lot Line Adjustment
Sheila Hayes

3. Development's location (street address, assessor's parcel no., cross street, etc.):

4. Description of decision being appealed:

a. Approval; no special conditions:

b. Approval with special condition:

Planning Commission's
Decision

c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

EXHIBIT NO.	3
APPLICATION NO.	2-03-03-EDD
HAYES/CALLAN	
(Page 1 of 5 pages)	

RECEIVED

OCT 15 2003

CALIFORNIA
COASTAL COMMISSION

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

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

a. Planning Director/Zoning Administrator

c. Planning Commission

b. City Council/Board of Supervisors

d. Other

6. Date of local government's decision:

9-24-03

7. Local government's file number (if any):

PLN 2002-00115

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

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

(1) Barbara K. Manz - Applicant
P.O. Box 128P
El Granada, CA 94018

(2) Add'l. to be provided at a future date

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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 Attachment

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.

Barbara K. May
Signature of Appellant(s) or Authorized Agent

Date: *10-14-03*

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: _____

October 14, 2003

Peter Douglas, Executive Director
Members of the California Coastal Commission
C/O Chris Kern and Charles Lester
45 Fremont, Suite 2000
San Francisco, CA 94105

Re: San Mateo County PLN 2002-00115 - Sheila Hayes, Owner
Blanket "Administrative" Approved CDP, Coastside Design Review and LLA
Location: Steep Hillside Area in Miramar Directly Adjacent
To Both the Urban/Rural Boundary and Agricultural Land
APN: 048-025-110, 120, 130 and 140 (Flag Pole Shaped Lot)

Dear Mr. Douglas and Commission Members:

This appeal is being made as a matter of principle and for multiple concerns including threats to the environment, questionable lot legality and the threat of possible urban sprawl into rural land behind the Urban/Rural Boundary and Agricultural that are directly adjacent. The above named project would put development pressures on the adjacent areas. (See my letters dated September 24th and May 28th, 2003 and Staff Report materials attached herewith.)

Despite the Coastal Commission's determination in August, 2003 which was handed to Terry Burnes, Planning Director - (Agenda Item #W4a Tom Carey LLA) that Lot Line Adjustments (LLAs) ARE considered to be development requiring a separate Coastal Development Permit (CDP) and, that LLAs ARE appealable to the Coastal Commission (See Exhibit A), on September 24, 2003, the San Mateo County Planning Commission, on advisement from Mr. Burnes, WENT TOTALLY AGAINST the Coastal Commission's determination with the granting a blanket CDP for LLA and project as described above for Sheila Hayes PLN 2002-00115. It is doubtful that Mr. Burnes disclosed the Determination regarding LLAs to the Planning Commissioners. Also, the statement in the Staff Report that says that LLAs are not appealable to the Coastal Commission misinformed both the appellant and other concerned parties.

I am requesting that I be able to appeal the decision regarding the project noted above directly to the California Coastal Commission. I am attaching my letters regarding the above named LLA/Project, which were submitted for the record along with other background materials for your review. Please also note that I am in complete support of Nick Licato's recent appeal of Tom Carey's LLA - this LLA carried along with it schemes for buildout water and sewer line extensions and a huge turnaround "cul-de-sac" plans (PLN 2001-00508) which were Exhibits attached to my letter of July 30th at the time of the Commission's LLA Determination regarding Tom Carey's (PLN 2001-00508). Please note, these buildout utility plans that were a part of the project under appeal by Mr. Licato include a 8" diameter water main extension that could service Hundreds of houses, 4" diameter sewer main extension, plans to cut down thirty (30) trees, grade an ephemeral stream/stream bank with the possibility of filling it in for construction of houses has now been converted into a NEW proposal using this same Project File Number - (PLN 2001-00508) by Tom Carey and his Contractor/Agent, Bruce Stebbins which was also granted a blanket CDP on September 11th, 2003 (See Exhibit B). This project would put AT RISK Three (3) contiguous Greenbelt/Open Space Areas - ("Mirada Surf" Hillside, Quarry Park/Quarry Park Trail Access Rd. and the newly acquired Peninsula Open Space Trust (P.O.S.T.) forested hillside areas called "Wicklow"). (See Exhibit C).

Continued ...

Page 2

Audrey Rust describes these three Open Space Areas as One Contiguous Greenbelt where people will be able to walk along the ocean, over the "Mirada Surf" bluff area up along the Quarry Park trail access road, past the beautiful field/tree grove areas of "Mirada Surf" which is directly adjacent, past the Ephemeral Stream and the Grove of Trees along that Stream Bank up into the Quarry Park area and into the newly acquired "Wicklow" hillside areas and then, clear over to Montara Mountain. This little stream and tree covered stream bank are the GATEWAY to these treasured Greenbelt/Open Space Areas!

It is requested that the Coastal Commission issue an immediate Stop Order/Injunction to stop the destruction of this Coastal Resource that has is well documented - (See U.S.G.S. Geologist, retired, Ken LaJoie's letter of February 27, 2001, aerial photos, and topographic maps which were hand delivered to Chris Kern earlier this month - these photos show over sixty years existence of this ephemeral stream which were given to the County and were subsequently lost. Perhaps the ONLY way to prevent the destruction of this valued Coastal Resource is for a return visit to the site by Mr. Kern, Biologist, Dr. John Dixon and Enforcement Officer, Jo Ginsberg who determined that this ephemeral stream/stream bank is a Coastal Resource with an intent to change the Coastal Commission's jurisdictional map to reflect this; now, that the Commission has Mr. LaJoie's materials, this determination can finally get accomplished.

Thank you,

Barbara K. Mauz

Barbara K. Mauz
P.O. Box 1284
El Granada, CA 94018
Phone: (650) 726-4013

Attach.

CALIFORNIA COASTAL COMMISSION

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



EXHIBIT NO. 4

APPLICATION NO.
2-03-03-EDD

HAYES/CALLAN

(Page 1 of 2 pages)

October 21, 2003

San Mateo County
 Planning and Building Division
 455 County Center
 Mail Drop PLN122
 Redwood City, CA 94063

ATTN: Gabrielle Rowan

**SUBJECT Deficient Final Local Action Notice PLN2002-00115 (Hayes)
 CDP for Single-Family Residence, installation of a new fire hydrant,
 extension of water and sewer mains, and Lot Line Adjustment**

Dear Ms. Rowan:

On October 16, 2003, Commission staff received the County's Final Local Action Notice, dated October 15, 2003 concerning the above-referenced coastal development permit. The Notice does not comply with Section 13571, *Final Local Government Action—Notice*, of the Commission Regulations or the corresponding provisions of Sections 6328.11.1 and 6328.16 of the County's certified Local Coastal Program. The Notice is deficient in that it neither notices the approved lot line adjustment as development requiring a coastal development permit that is appealable to the Coastal Commission nor provides the procedures for appeal of the local decision to the Commission as required by Section 13571(a) of the Coastal Commission regulations and Section 6328.11.1 and 6328.16 of the County's certified Local Coastal Program.

In two separate actions, occurring on October 10, 2002 and August 6, 2003, the California Coastal Commission affirmed the determination by the Commission's Executive Director that all lot line adjustments in the Coastal Zone require a coastal development permit except where exempt pursuant to an approved categorical exclusion order, and that any coastal development permit approved for a lot line adjustment in San Mateo County is appealable to the Coastal Commission because lot line adjustments are not identified as the principal permitted use in any zoning districts within the Coastal Development overlay zone in the County, including the R-1 zone.

We note that subsequent to certification of the County's LCP, a court of appeal held in its published decision *La Fe v Los Angeles County* (1999) 73 Cal. App. 4th 231 that lot line adjustments are development as defined in Coastal Act Section 30106 both because lot line adjustments constitute a division of land and because lot line adjustments result in a change in the density or intensity of use of land. We also note that Section 6328.16 of the County's certified Local Coastal Program specifies that actions by the County "may be appealed to the Coastal Commission in accordance with Coastal Commission regulations." In conformity with

Letter to Gabrielle Rowan (yes)
October 21, 2003
Page 2

Sections 13569, 13570 and 13571 of the Commission regulations and Sections 6328.11.1 and 6328.16 of the County's certified Local Coastal Program, the County should accordingly issue a corrected Final Local Action Notice indicating that the subject lot line adjustment is development requiring a coastal development permit, that the County's action approving the lot line adjustment is appealable to the Coastal Commission, and providing the procedures for appeal of the local decision to the Commission. Pursuant to Section 13572 of the Commission regulations and Section 6328.16 of the County's certified Local Coastal Program, PLN2002-00115 will remain suspended and will not become effective until a corrected notice has been issued and the appeal period to the Commission has run.

Section 13569 of the Commission regulations provides for Commission review of local government determinations of permit appealability. If the County disagrees with the Executive Director's determination that the project comes within the Commission's appellate jurisdiction pursuant to Section 30603, a Commission hearing will be scheduled in accordance with Section 13569(d) to resolve the disagreement.

Sincerely,



Chris Kern
Coastal Program Manager
North Central Coast District

cc: Marcia Raines
Terry Burns
Sheila Hayes
Barbara Mauz

CHAPTER 6. "R-1" DISTRICTS **(ONE-FAMILY RESIDENTIAL DISTRICT)**

SECTION 6160. REGULATIONS FOR "R-1" DISTRICTS. The following regulations shall apply in all "R-1" districts and shall be subject to the provisions of Chapter 22 of this Part.

SECTION 6161. USES PERMITTED.

- (a) One-family dwellings.
- (b) Public parks and public playgrounds.
- (c) Crop and tree farming and truck gardening.
- (d) Home occupations.
- (e) Accessory buildings and accessory uses appurtenant to a residential use, provided, however, that such accessory buildings shall not be constructed until the main building shall have been constructed.
- (f)
 - (1) Keeping of pets in association with a one-family dwelling.
 - (2) Limited keeping of pets in association with a second unit.
- (g)
 - (1) Animal Fanciers in association with a one-family dwelling, subject to an animal fanciers' permit issued in accordance with County Ordinance Code, Division III, Part Two, Chapter 6.3.
 - (2) Catteries in association with a one-family dwelling, subject to a kennel/cattery permit issued in accordance with County Ordinance Code, Division III, Part Two, Chapter 12.
- (h) Reverse vending machines at public facilities.
- (i) Small collection facilities for recyclable materials at public facilities, subject to obtaining a building permit, provided that there is no additional mechanical processing equipment on site, that collection facilities shall not be located within 50 feet of a residence, nor decrease traffic or pedestrian circulation or the required number of on-site parking spaces for the primary use, and all litter and loose debris shall be removed on a daily basis.

- (j) Large Residential Day Care Facilities for Children (Family Day Care Homes; 7-12 children), subject to a large family day care permit issued in accordance with the County Zoning Regulations, Chapter 22, Section 6401.2.
- (k) The following uses subject to securing a use permit in each case:
 1. Churches, schools, libraries and fire stations.
 2. Golf courses with standard length fairways and country clubs.
 3. Non-commercial clubs.
 4. Nurseries and greenhouses used only for the propagating and cultivating of plants, provided that no retail sales shall be allowed. The granting of such use permits shall generally be confined to those areas of the County in which the nurseries and greenhouses are already established, and use permits granted to applicants presently operating such greenhouses and nurseries shall normally cover the proposed future development of all property owned or controlled by the applicant.
 5. A second residential unit on a parcel at least 7,000 sq. ft. in size in the Coastal Zone.

SECTION 6162. SECOND DWELLING UNITS. See Chapter 22.5 for provisions to allow second dwelling units to locate in the R-1 Zoning Districts.

- (Section 6161(f) - Amended by Ordinance No. 3423 - November 10, 1992)
- (Section 6161(g) - Amended by Ordinance No. 3423 - November 10, 1992)
- (Section 6161 (h) - Amended by Ordinance No. 1427 - September 27, 1960)
- (Section 6161 (h)(5) - Added by Ordinance No. 2705 - December 16, 1980)
- (Section 6161(h) - Amended/Added by Ordinance No. 3131 - December 15, 1987)
- (Section 6161(i) - Amended/Added by Ordinance No. 3131 - December 15, 1987)
- (Section 6161(h), (i), and (j) - Amended/Added by Ordinance No. 3157 - September 13, 1988)
- (Section 6161(j) - Amended by Ordinance No. 3791 - October 21, 1997)
- (Section 6161(j) - Added by Ordinance No. 3791 - October 21, 1997)
- (Sections 6162, 6163, 6164 - Repealed by Ordinance No. 1483 - October 10, 1961)
- (Section 6162 - Added by Ordinance No. 2877 - January 24, 1984)
- (Section 6162 - Amended by Ordinance No. 3057 - March 4, 1986)

JKE:kcd/cdn - JKE1170.6KR
(7/12/99)

CHAPTER 20. "S-17" DISTRICT **(COMBINING DISTRICT)**

SECTION 6300.2. REGULATIONS FOR "S-17" COMBINING DISTRICT. The following regulations shall apply in any single-family residential district with which the "S-17" District is combined.

1. **Minimum Building Site**

- a. Minimum lot width: 50 feet.
- b. Minimum lot area: 5,000 sq. ft.

2. **Minimum Lot Area Per Dwelling Unit**

Minimum lot area per dwelling unit: 5,000 sq. ft.

3. **Minimum Yards Required**

- a. Front yard: 20 feet.
- b. Side yards:
 - (1) For structures 16 feet in height or less: 5 feet each side.
 - (2) For structures over 16 feet in height: combined total of 15 feet with a minimum of 5 feet on any side.
- c. Rear yard: 20 feet.
- d. In any area where the "S-17" District is combined with the "DR" District, the minimum side yard setback may be reduced to provide for creative design concepts such as "zero" side yard setbacks provided that: (1) the Design Review Administrator approves, (2) the application involves joint development of two or more adjacent lots, (3) the total side yard requirement is met and (4) a minimum side yard of 5 feet is maintained adjacent to any lot not included with the application.

4. **Maximum Height Permitted**

- a. Structural height at the highest point of the roof shall not exceed 28 feet.

b. In any areas where the "S-17" District is combined with the "DR" District, the following exceptions to the maximum height limit may be allowed subject to the approval of the Design Review Administrator:

(1) Lots With Downhill Slopes. Where the average slope of a lot is greater than a (1) foot fall in seven (7) feet distance from the established street grade at the front lot line and where a sewer connection must be made uphill from the building location, the maximum height allowed may be increased to 36 feet, and

(2) Alternative Energy. Solar panels and chimneys may extend beyond the height limit as required for safety or efficient operation.

5. Maximum Coverage Permitted

a. For structures 16 feet in height or less: 50%.

b. For structures greater than 16 feet in height: 35%.

6. Noise Insulation and Avigation Easement

For new dwellings on those properties in Moss Beach, north of Half Moon Bay Airport, identified on County Zoning Maps 37-18 and 37-24, the following shall apply:

a. Submit an acoustical analysis, prepared by a qualified acoustical consultant, demonstrating that new construction has been designed to comply with the following standards:

(1) Interior community noise equivalent levels (CNEL) with windows closed, attributable to exterior sources shall not exceed an annual CNEL of 45 dBA in any habitable room.

(2) Design maximum noise levels (single event) shall not exceed 50 dBA in bedrooms and 55 dBA in other habitable rooms.

b. Construct residence in accordance with recommendation of acoustical analysis.

c. Grant to the County an avigation easement which (1) provides for aircraft use of airspace above grantor's property, and (2) protects the County from liability associated with aircraft operations.

(Section 6300.2 - Amended by Ordinance No. 3595 - September 20, 1994)

EXHIBIT NO. 6
APPLICATION NO. 2-03-03-EDD
HAYES/CALLAN
(Page 1 of 4 pages)

CHAPTER 20B. "CD" DISTRICT
(COASTAL DEVELOPMENT DISTRICT)

SECTION 6328. ESTABLISHMENT AND PURPOSE OF COASTAL DEVELOPMENT DISTRICT. There is hereby established a Coastal Development ("CD") District for the purpose of implementing the Coastal Act of 1976 (Division 20 of the Public Resources Code) in accordance with the Local Coastal Program of the County of San Mateo.

SECTION 6328.1. REGULATIONS FOR "CD" DISTRICT. The regulations of this Chapter shall apply in the "CD" District. The "CD" District is an "overlay" district which may be combined with any of the districts specified in Chapters 5 through 20A of this Part, or other districts which may from time to time be added by amendment to this Part. The regulations of this Chapter shall apply in addition to the regulations of any district with which the "CD" District is combined.

SECTION 6328.2. LOCATION OF "CD" DISTRICT. The "CD" District is and shall be coterminous with that portion of the Coastal Zone, as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the unincorporated area of San Mateo County.

SECTION 6328.3. DEFINITIONS. For the purpose of this Chapter, certain terms used herein are defined as follows:

- (a) "Aggrieved person" means any person who, in person or through a representative, appeared at a public hearing or by other appropriate means prior to action on a Coastal Development Permit informed the County of his concerns about an application for such permit, or who for good cause was unable to do either, and who objects to the action taken on such permit and wishes to appeal such action to a higher authority.
- (b) "Applicant" means the person, partnership, corporation or State or local government agency applying for a Coastal Development Permit.
- (c) "Approving authority" means the County officer, commission or board approving a Coastal Development Permit.
- (d) "Coastal Commission" means the California Coastal Commission.
- (e) "Coastal Development Permit" means a letter or certificate issued by the County of San Mateo in accordance with the provisions of this Chapter, approving a project in the "CD" District as being in conformance with the Local Coastal Program. A Coastal Development Permit includes all applicable materials, plans and conditions on which the approval is based.

- (f) "Coastal Policy Checklist" means a form prepared and completed by the Planning Director as a guide for reviewing a Coastal Development Permit application for conformance with the Local Coastal Program. It shall list appropriate application information, all Local Coastal Program policies, those policies with which the application does not comply and recommended conditions, if any, which could be imposed to bring the application into compliance.
- (g) "Coastal Zone" means that portion of the Coastal Zone, as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the unincorporated area of San Mateo County.
- (h) "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land including lots splits, except where the division of land is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan, submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

- (i) "Emergency" means a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.
- (j) "Historic structure" means, in accordance with Health and Safety Code Section 18955, any structure, collection of structures, and their associated sites deemed of importance to the history, architecture, or culture of an area by an appropriate local or State governmental jurisdiction. This shall include structures on existing or future national, State, or local historical registers or official inventories, such as the National Register of Historical Places, State Historical Landmarks, State Points of Historical Interest, and city or County registers or inventories of historical or architecturally significant sites, places, historic districts, or landmarks.

- (k) "Local Coastal Program" means the County's land use plans, zoning ordinances, zoning maps and implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.
- (l) "Major energy facility" means any energy facility as defined by Public Resources Code Section 30107 and exceeding \$25,000 in estimated cost of construction.
- (m) "Major public works project" means any public works project as defined by California Administrative Code Section 13012 and exceeding \$25,000 in estimated cost of construction.
- (n) "Other permits and approvals" means permits and approvals, other than a Coastal Development Permit, required by the San Mateo County Ordinance Code before a development may proceed.
- (o) "Overlay district" means a set of zoning requirements, described in the ordinance text and mapped, which is imposed in addition to the requirements of one or more underlying districts. Development in such districts must comply with the requirements of both the overlay district and the underlying district(s). The "CD" District is an overlay district.
- (p) "Permittee" means the person, partnership, corporation or agency issued a Coastal Development Permit.
- (q) "Principal permitted use" means any use representative of the basic zone district allowed without a use permit in that underlying district.
- (r) "Project" means any development (as defined in Section 6328.3(h)) as well as any other permits or approvals required before a development may proceed. Project includes any amendment to this Part, any amendment to the County General Plan, and any land division requiring County approval.
- (s) "Project appealable to the Coastal Commission" if approved by the Board of Supervisors means:
 - (1) Projects between the sea and the first through public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Projects in County jurisdiction located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff.
 - (3) Any project involving development which is not a principal permitted use in the underlying zone, as defined in Section 6328.3(p).

- (t) "Project appealable to the Coastal Commission" if approved, conditioned, or denied by the Board of Supervisors means any project involving development which constitutes a major public works project or a major energy facility (as defined in Section 6328.3).
- (u) "Scenic Road Corridor" means any scenic road corridor as defined and mapped in the Visual Resources Component of the Local Coastal Program.
- (v) "Underlying district" means any district with which the "CD" District is combined.
- (w) "Working day" means any day on which County offices are open for business.

SECTION 6328.4. REQUIREMENT FOR COASTAL DEVELOPMENT PERMIT.

Except as provided by Section 6328.5, any person, partnership, corporation or state or local government agency wishing to undertake any project, as defined in Section 6328.3(r), in the "CD" District, shall obtain a Coastal Development Permit in accordance with the provisions of this Chapter, in addition to any other permit required by law. Development undertaken pursuant to a Coastal Development Permit shall conform to the plans, specifications, terms and conditions approved or imposed in granting the permit.

SECTION 6328.5. EXEMPTIONS. The projects listed below shall be exempt from the requirement for a Coastal Development Permit. Requirements for any other permit are unaffected by this section.

- (a) The maintenance, alteration, or addition to existing single-family dwellings; however, the following classes of development shall require a permit because they involve a risk of adverse environmental impact:
 - (1) Improvements to a single-family structure on a beach, wetland or seaward of the mean high tide line.
 - (2) Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within 50 feet of the edge of a coastal bluff.
 - (3) The expansion or construction of water wells or septic systems.
 - (4) On property located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in scenic road corridors, an improvement that would result in an increase of 10% or more of internal floor area of an existing structure, the construction of an additional story (including lofts) in an existing structure,

