

CALIFORNIA COASTAL COMMISSION

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Staff: NC-SF
Staff Report: March 26, 2004
Hearing Date: April 14, 2004

**STAFF RECOMMENDATIONS AND FINDINGS
 FOR CEASE AND DESIST ORDER**

CEASE AND DESIST ORDER: CCC-03-CD-014

RELATED VIOLATION FILE: V-2-01-011

PROPERTY LOCATION: One Miramontes Point Road, Half Moon Bay, San Mateo County (APNs 066-092-780 and 066-092-770)

DESCRIPTION OF PROPERTY The hotel premises portion, One Miramontes Drive, seaward of Ocean Colony at Miramontes Point, Half Moon Bay

PROPERTY OWNER and PERSON SUBJECT TO THIS ORDER: The Ritz Carlton Hotel Company, LLC

VIOLATION DESCRIPTION: Non-compliance with the terms of CDP No. 3-91-71/1-95-47: failing to provide 25 public parking spaces, within the Ritz Carlton parking garage as required.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit 3-91-71/1-95-47
2. Coastal Development Permit 1-94-04 Background Exhibits

CEQA STATUS: Exempt (CEQA Guidelines (CG) §§ 15061 (b) (3)) and Categorically Exempt (CG §§ 15061(b)(2),(3), 15307, 15308 and 15321)

I. SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve Cease and Desist Order No. CCC-03-014 ("Order") to address the Ritz Carlton Hotel Company LLC's ("Ritz Carlton") non-compliance with past coastal development permit ("CDP") actions by requiring the Ritz Carlton to take affirmative steps to provide 25 public parking spaces within the Ritz Carlton garage that are easily accessible by the public as required by the Commission when it conditionally approved CDP 3-91-71/1-95-47¹. This enforcement action arises after more than three years of complaints regarding noncompliance with the CDP requirements regarding public access parking, and numerous attempts by Commission staff to resolve the situation informally.

As approved by the Commission, the CDP permitted the construction of a 271-room luxury resort hotel facility and the construction of significant public access improvements at One Miramontes Point Road in the City of Half Moon Bay, San Mateo County. Recognizing the existing and future public access use at the subject property, the Commission required the Ritz Carlton and the co-applicant, the City of Half Moon Bay (for that portion involving the extension of Miramontes Point Road to the hotel property) to provide public access amenities which include: a bluff top scenic overlook, a paved pedestrian access path along the length of the property, bike lanes connecting from Highway One to and along the property, public restrooms and viewing decks, and a vertical access way to Canada Verde Beach. The Commission also required the Ritz Carlton to provide two different public parking areas, a 15-car lot located next to the pathway to Canada Verde Beach south of the hotel premises and 25 parking spaces either on hotel premises or at the end of Redondo Beach Boulevard (north of the hotel property). In November of 1998, the Executive Director approved the revised plans submitted by the Ritz Carlton as being consistent with CDP No. 3-91-71/1-95-47. In those plans, the Ritz Carlton proposed and the Executive Director approved the provision of the 25-public parking spaces within the hotel parking garage (as well as the 15-car Canada Verde lot).

Starting in June of 2001, the Commission began receiving reports from the public that the Ritz Carlton was denying the public use of the 25 parking spaces located on the hotel garage. In some instances the public was not informed by Ritz Carlton staff that there was onsite public parking, and they were instead directed to the 15-space Canada Verde parking lot south of the Ritz Carlton property (which is often filled to capacity during prime usage hours such as after work on week-days and on the week-ends and holidays). In at least some instances, Ritz Carlton staff informed members of the public that there was no public parking on the hotel site. Commission staff repeatedly attempted to resolve the situation. Staff telephoned, wrote letters and met with Ritz Carlton staff several times regarding the problem of permit compliance (See letters from

¹ The CDP has combined two Commission District numbers due to two different district offices handling this permit. The Central Coast office processed the original permit application and decision and the North Coast office processed the submittal of CDP condition compliance.

Commission staff to the Ritz Carlton concerning the problem dated June 26, 2001, February 14, 2002, April 17, 2002, and August 7, 2002 (Exhibits 4, 6, 8, and 10). The Ritz Carlton has continually promised the Commission that it would fully comply with the requirements of its CDP (Exhibits 5, 7, 9, and 11). However, the problems continued with new reports during 2003. Commission staff again attempted to resolve the situation without bringing a formal enforcement action. When the reports continued to be filed by the public despite the efforts of Commission staff and continual promises made by the Ritz Carlton, the Executive Director finally notified the Ritz Carlton by letter dated October 23, 2003, of his intent to commence a Cease and Desist Order hearing to ensure compliance with CDP 3-91-71/1-95-47 (Exhibit 12).

In order to issue a Cease and Desist Order under Section 30810 of the Coastal Act, the Commission must find that the activity that is the subject of the order has occurred either without a required CDP or in violation of a previously granted CDP. This Order is being brought to address the continuing violations of CDP 3-91-71/1-95-47 by the Ritz Carlton. The Coastal Act violations addressed by this Order are the Ritz Carlton's failures to allow the public to use the 25 public parking spaces within its garage on hotel premises as clearly required by the Permit. The Commission has received at least twelve complaints that demonstrate that the public was prohibited, misled or heavily discouraged from utilizing the 25-parking spaces within the Ritz Carlton garage. While the Commission has documented at least twelve incidents where members of the public or Commission staff has been discouraged or prohibited from accessing the 25-parking spaces, clearly this is only a sampling of what appears to be ongoing and persistent problems. It is very likely there have been additional instances experienced by the public, which have not been reported to the Commission.

The Ritz Carlton's failure to provide the public the required access to the 25 spaces within its garage consists of an ongoing activity that is inconsistent with the terms of CDP 3-91-71/1-95-47. The proposed Order will require the Ritz Carlton to affirmatively act to enable the public to park on its premises as required by the Permit condition by requiring: 1) additional parking signs along Miramontes Point Road and within the existing Canada Verde Beach parking lot that identify the amount of and the location of the 25 spaces within the Ritz Carlton garage; 2) a parking permit machine located at the Ritz Carlton greeter station to provide the public with garage parking permits for entry into the hotel garage parking facility; 3) a machine installed at the entry of the Ritz Carlton garage to receive the issued parking permit from the public when it enters the garage; 4) additional employee training; and 5) the production of and distribution of a public access/parking amenities brochure with copies to be made available to the public at the Ritz Carlton greeter station. The Order would allow the public to access the parking spaces independently without having to solicit assistance from Ritz Carlton staff to obtain entry and would also direct and order the Ritz Carlton to comply with the CDP requirements and avoid future violations of the CDP parking requirements.

II. HEARING PROCEDURES

The procedures for a hearing on a proposed Cease and Desist Order are set forth in section 13185 of the Commission's regulations. For a Cease and Desist Order hearing, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any person, other than the violator or its representative. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR section 13185 and 13186 incorporating by reference section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the order.

III. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following motion:

Motion:

I move that the Commission issue Cease and Desist Order No. CCC-03-CD-014 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Cease and Desist Order:

The Commission hereby issues Cease and Desist Order number CCC-03-CD-014, as set forth below, and adopts the findings set forth below on grounds that the Ritz Carlton has undertaken activity which is inconsistent with CDP 3-91-71/1-95-47 previously issued by the Commission.

IV. FINDINGS FOR CEASE AND DESIST ORDER CCC-03-CD-014

Staff recommends the Commission adopt the following findings of fact in support of its action.

A. History of Commission Permit Actions on Subject Property

In 1991, and later in 1995,² the Commission conditionally approved CDP No. 3-91-71/1-95-47 ("Permit") for the Half Moon Bay Resort Partners and the City of Half Moon Bay for a 350-unit resort hotel complex, land division and extension of Miramontes Point Road (Exhibit 1: location map and Exhibit 3: Signed Notice of Intent to Issue CDP and CDP).³ The Half Moon Bay Resort Partners assigned the Permit to the Ritz Carlton Hotel Company LLC ("Ritz Carlton").

At the time of Commission permit action, the proposed 350-unit resort hotel represented a priority visitor serving use under the Coastal Act and the certified LCP Land Use Plan ("LUP"). The approved project included the extension of Miramontes Point Road to access the site across various intervening property held by differing ownerships within the City's South Wavecrest Redevelopment Area; the City of Half Moon Bay was the co-applicant for this portion of the project. Because only limited sewage treatment capacity is presently available, the Permit was phased to limit hotel room construction to no more than 275 units until such time as additional sewage treatment capacity is available. The existing Ritz Carlton Hotel Half Moon Bay has 271 rooms.

The Commission required the Ritz Carlton to provide a comprehensive public access program both on- and off-site so that a balanced range of high-end as well as more affordable public amenities was provided by the approved project, consistent with the

² The Central Coast District office processed the 1991 CDP application; in 1995 Commission jurisdiction for permits for Half Moon Bay had transferred from the Commission's Central Coast District to its North Coast District. The original CDP has a Central Coast number: 3-91-71. When the applicant was ready to submit condition compliance, permit jurisdiction for the project had transferred to North Coast District. The original CDP was renumbered in 1995 from 3-91-71 to 3-91-71/1-95-47 to reflect the change in jurisdiction and to clarify internal permit record keeping.

³ The City of Half Moon Bay was the co-applicant due to the proposed extension of Miramontes Point Road and their ownership of the land for that road extension. The City was not subject to the permit conditions requirements for the hotel resort complex.

Coastal Act and the approved LUP. Prior to development, the Commission found the existence of public prescriptive use of the subject property and determined that consistent with the public access policies contained in Chapter 3 of the Act, the approved resort hotel project must preserve and provide for continuing public use of the shoreline property.

The Permit required the Ritz Carlton to provide onsite public access amenities such as: 1) creation of a bluff-top scenic overlook for hotel guests and the visiting public; 2) a pedestrian access path between the hotel's parking garage and the bluff-top overlook connecting to the public bikeway located north of the hotel property adjacent to Redondo Beach Road; 3) a coast side bikeway segment connecting the extended Miramontes Point Road, the bluff-top overlook and the southern end of Olive Avenue; 4) bicycle parking areas; 5) roadside bike lanes connecting the hotel site to Highway One; 6) a public parking lot along Miramontes Point Road south of hotel premises for at least 15 cars for Canada Verde beach parking; 7) vertical beach access for Canada Verde Beach; 8) public restrooms; 9) adequate signage clearly marking access routes, public parking, Miramontes Point overlook and public restrooms.

Since there was not adequate room to provide for a satisfactory range of free and/or low-cost recreational facilities on the hotel site, the Permit required the Ritz Carlton to be responsible for providing such facilities offsite, at adjacent and nearby locations. In addition to the extension of Miramontes Pt. Road, the program was to include the establishment of and arrangements for maintenance of public access facilities to and along the shoreline. The Permit required the applicants to either construct the offsite public access amenities or to provide in-lieu fees so that appropriate public or non-profit entities could provide the offsite amenities. The applicants satisfied the offsite public access requirements by paying an in-lieu fee of \$250,000 to the City of Half Moon Bay so that the City could complete the coastal trail system to Redondo Beach Road. The applicants also paid an in-lieu fee of \$350,000 for the creation of off-site low and moderate overnight accommodations.

This action involves the requirements of Special Condition No. 2a of CDP 3-91-71/1-95-47, which states:

Miramontes Pt. parking. A public parking area on hotel premises at Miramontes Pt., min. 25 spaces, as provided by the Ocean Colony Planned Unit Development ordinance (Ordinance No. 4-91). Such parking area shall be open during daylight hours commencing at sunrise and at least until one hour after sunset throughout the year. (With respect to this coastal development permit, permittee may satisfy this condition by demonstrating that a like quantity and quality of parking, along with a paved access road, has been provided as an addition to the required parking at the seaward end of Redondo Beach Road.)

In November of 1998, the Athens Group, the resort hotel project permittee at the time, submitted final revised access plans to Commission staff in compliance with the above-cited public access condition requirements of the Permit. The Executive Director approved these plans. At the time of plan approval, the permittee depicted the provision of 25 public parking spaces within the hotel's parking garage. There is a greeter station that one must pass through to enter the Ritz Carlton premises. As the Commission understands the situation, previously, the intended procedure was that the hotel staff at the greeter station would direct visitors who ask to use the hotel public parking in the garage to either drive to the hotel's main entrance, or to drive directly to the garage entrance, and ask a valet to let them into the garage. More recently, the Commission has been informed that intended procedure was that the hotel staff at the greeter station first writes down the visitor's license plate, then the staff gives the visitor a tag to hang on their rear-view mirror, radios a valet, and asks the valet to meet the visitor at the garage entrance to let them into the garage.

B. History of Violation

In May 2001, Commission enforcement staff began receiving reports that the public was having difficulty getting to the 25 parking stalls within the resort hotel complex. Because of multiple reports, Commission staff independently began to investigate the Ritz Carlton's public access amenities and access to the 25 parking stalls, and to evaluate compliance with the Permit conditions (whenever they had reason to be in the vicinity of the Ritz Carlton). In a visit to the site in May 2001, Commission staff confirmed that there was no one at the greeter station when they arrived, and there were no signs indicating where the parking is located within the Ritz Carlton garage. Two different Ritz Carlton employees stated that they didn't know about any public parking available on the resort hotel property.

Commission access program staff also reported that City of Half Moon Bay residents had told them that they have had similar problems and that the hotel employees had attempted to charge the Half Moon Bay residents \$10 to park within the garage when they arrived to use the coastal trails and the 25 parking spaces. Upon contact, on June 13, 2001, Jeffrey Mongan, for the Ritz Carlton, indicated that steps were being taken to rectify the situation.

On June 22, 2001, another report was received which stated that the person in the Ritz Carlton parking garage knew nothing about public parking, the spots that were formerly designated for public parking were blocked off and posted for "Valet Parking" and the visitor was told that he could park "where the caddies park" in the service area. Enforcement staff wrote the Ritz Carlton on June 26, 2001, concerning the report, and the Ritz Carlton sent a response on July 12, 2001, stating again that they had fixed the problem (Exhibits 4 and 5).

On February 12, 2002, a visitor reported that the hotel greeter station was unattended, and when she followed the signs to the hotel parking structure, there were guard gates in place at all entrances and three "Valet Parking Only" signs posted. The valet on duty at the garage seemed uncertain when she asked to park in the public parking spaces. After she insisted that there were parking spaces for the public within the garage, the valet let her into the garage to park. She was told to park in a space opening up in the service vehicle area. In response, on February 14, 2002, enforcement staff yet again contacted the Ritz Carlton, and on March 25, 2002, the Ritz Carlton again assured Commission staff that they would resolve the problem (Exhibits 6 and 7).

On March 26, 2002, a member of the public contacted enforcement staff and stated he had recently had trouble using the hotel parking spaces when inquiring about public access parking. He was directed by the Ritz Carlton greeter offsite to the 15-car parking lot south of the hotel premises, adjacent to the Canada Verde Beach access way.

On April 10, 2002, Commission enforcement program management and staff visited the Ritz Carlton (in a car with State of California license plates and a State of California decal on the car window), and had trouble accessing the 25 public parking spaces. The Commission staff had not ever been to the hotel or tried to utilize the public parking within the parking garage. The hotel greeter station was unmanned and an existing sign installed on the grass to the right of the greeter station, which stated "Coastal Access Parking" with an arrow, did not direct them to where the parking was located. The Commission staff drove around the premises, could not find the public parking and no hotel employees were available to assist them in their search. The parking garage had security gates in place at all three entrances, fully blocking access. Staff could see some spots dimly marked for Coastal Access Parking on the second floor of the garage, but could not enter the garage and there were no onsite valet staff to allow entry. The Commission staff then drove to the hotel entry round-about, and a staff valet directed them to the 15-space lot located on Miramontes Road. Staff responded that 25 public parking spaces were supposed to be available on hotel premises, and the valet stated that he had been working for the Ritz Carlton since the hotel had opened and he didn't know anything about any public parking on hotel premises. At this point staff identified themselves as Commission employees and handed the valet their business cards. Another valet appeared and told the staff to go to the garage and someone would "buzz" them into the garage.

Around the same time, Commission staff received another report from a member of the public. The report stated that there was no one at the greeter's station when he arrived, and that the existing sign with the arrow stating "Coastal Access Parking" confused him since the arrow did not point to any particular destination. After some time and difficulty, he located a valet near one of the hotel restaurants, Caddy's, who was willing to help him find a spot in the hotel garage after opening up one of the entrance gates. On April 17, 2002, enforcement staff contacted the Ritz Carlton (Exhibit 8). By letter dated

May 1, 2002, the Ritz Carlton again indicated that they would fix the problem and concurred that part of the problem was the lack of staff at the hotel greeter station (Exhibit 9).

However, another Commission staff member visited the hotel on July 14, 2002, and when she stopped at the greeter's station and inquired about public access parking, she was told that there was public parking to the south on Miramontes Point Road (the 15-space Canada Verde parking lot). Only when she persisted and asked specifically about public parking on hotel premises in the hotel parking garage she was told by the greeter that yes, there was public parking in the hotel parking garage, but that the beach access way was located by the 15-space parking lot on Miramontes Point Road and that thus, she should park in that lot.

After receiving this complaint, Commission enforcement staff contacted the Ritz Carlton, giving them 30 days to comply with permit conditions or face formal enforcement action. Staff also set up a meeting with the Ritz Carlton to take place in early August 2002. Once again the Ritz Carlton contacted staff and indicated that they wanted to avoid formal action and that they would take steps to resolve the situation.

On August 6, 2002, Commission staff met with management from the Ritz Carlton in an attempt to finally resolve the situation. At this meeting Commission enforcement staff made it quite clear to the Ritz Carlton that unless the parking problems ceased, the Commission would be forced to issue a Cease and Desist Order to ensure that the Ritz Carlton abided by the permit actions approving the hotel facility. The Ritz Carlton representatives indicated that they had resolved all existing problems with public access, that they had implemented new training for hotel greeter staff, installed new signs, and assured Commission staff that the problems would no longer occur. On August 7, 2002, Commission staff confirmed the commitments made by the Ritz Carlton at the meeting (Exhibit 10). On August 29, 2002, the Ritz Carlton responded to the 7 August 2002 letter, confirming their commitment to agreements made in the meeting (Exhibit 11).

However, on April 1, 2003, Commission staff received an additional report of problems trying to access the public parking at the hotel premises. The reporting party indicated that when they asked hotel staff about public parking, they were told to utilize the 15-space Canada Verde Beach parking lot.

Yet another member of the public reported that on Sunday August 3, 2003, she and a friend approached the greeter station at the Ritz Carlton. The Ritz Carlton staff asked if they were checking into the hotel, and when the visitors indicated that they wanted to use the hotel coastal access trails, the staff told them that parking for all trails was back down Miramontes Point Road at the 15-space Canada Verde parking lot. The staff made no mention of any available parking facilities on Ritz Carlton property. The 15-

space Canada Verde parking lot was full, so the would-be visitors left without utilizing the trail system available at the Ritz Carlton.

On August 21, 2003, the Commission received an additional report from members of the public indicating that they had been turned away at the greeter's station when they attempted to use the onsite parking facilities. On September 4, 2003, two more complaints were received from members of the public who were directed to park in the Canada Verde 15-space parking lot when they inquired about onsite parking at the Ritz Carlton hotel.

Notice of Intent to Commence Cease and Desist Order Proceedings

On October 23, 2003, since Commission staff continued to receive reports from the public stating that they were not able to park on hotel premises as required by the Permit, the Executive Director of the Commission formally issued a Notice of Intent (NOI) to commence Cease and Desist Order proceedings against the Ritz Carlton Hotel Company LLC to compel compliance with the Permit requirements (Exhibit 12).

After receipt of the Commission's NOI, the Ritz Carlton indicated that they wished to reach a settlement of the issue with Commission staff. After several meetings and extensive negotiations which did not result in an agreement, Commission staff contacted the Ritz Carlton by letter dated February 26, 2004 and indicated that the matter would be scheduled for a unilateral Cease and Desist Order hearing (Exhibit 13). The Commission reinstated a deadline for receipt of a Statement of Defense form. The Ritz Carlton met that deadline and submitted their Statement of Defense on March 15, 2004 (Exhibit 14).

C. Description of Permit Noncompliance

The permit noncompliance, which is the subject matter of this Cease and Desist Order proceeding, consists of the Ritz Carlton's failures to provide the public access to 25 public parking spaces on hotel premises as required by the Permit conditions. While the Ritz Carlton maintains that they have provided 25 parking spaces within their hotel garage, the public has, repeatedly and over a period of over three years, not been able to access the spaces at all required times due to continuing problems interacting with various hotel staff (greeters, valets, security, etc.) who must be contacted to gain access to the public parking.

D. Basis for Issuance of Cease and Desist Order

The statutory authority for issuance of this Cease and Desist Order is provided in §30810 of the Coastal, which states, in relevant part:

- (a) *If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.*
- (b) *The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

As discussed in section C of the findings for this Order, the Ritz Carlton has failed to consistently provide the public access to 25 parking spaces on hotel property. This failure to provide is an activity undertaken by the Ritz Carlton, which is inconsistent with CDP 3-91-71/1-95-47. Therefore, the Commission may issue a Cease and Desist Order under section 30810 of the Coastal Act. Furthermore, as discussed in section C, the need to interact with hotel staff to access the public parking spaces on hotel property has resulted in instances where the public is discouraged or prevented from accessing the public parking spaces. Accordingly, pursuant to Section 30810(b) of the Act:

The Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division...

Therefore, the Commission finds that, to ensure compliance with CDP 3-91-71/1-95-47, it is necessary to order the Ritz Carlton to enact measures that enable the public to locate and access the public parking spaces on hotel property without the assistance of hotel staff.

E. California Environmental Quality Act (CEQA)

The Commission finds that issuance of a Cease and Desist Order to compel the compliance with CDP 3-91-71/1-95-47 is exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the meaning of CEQA. The Cease and Desist Order is exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15061 (b)(2) and (3), 15307, 15308 and 15321 of the CEQA Guidelines.

F. Allegations

The Commission alleges the following:

1. The Ritz Carlton Hotel Company LLC is the owner of the property located at One Miramontes Point Road, Half Moon Bay, San Mateo County (APNs 066-092-780 and 066-092-770).
2. The Ritz Carlton Hotel Company LLC has undertaken activity which is inconsistent with the terms and conditions of CDP 3-91-71/1-95-47 by discouraging and/or preventing the public from parking in the required, free, 25-public parking spaces in the Ritz Carlton parking garage, and failing to both provide such parking and to disclose the availability of the free onsite parking spaces.
3. The Ritz Carlton Hotel Company LLC has not obtained a CDP amendment to change the nature of its Permit parking requirements.
4. In letters dated June 26, 2001, February 13, 2002, April 10, 2002, August 7, 2002 and October 23, 2003, Commission staff informed the Ritz Carlton of its noncompliance with CDP 3-91-71/1-95-47, that its noncompliance constitutes an ongoing violation of the Coastal Act, and requested that noncompliance cease.
5. Despite giving numerous assurances, the Ritz Carlton has failed to consistently provide the public access to the 25 spaces located on Hotel premises, and has violated its Permit condition on an ongoing basis, with at least twelve separate occasions documented by specific complaints.

G. Violators' Defenses and Commission's Response

The Ritz Carlton submitted its Statement of Defense on March 15, 2004. A complete copy of the submitted Statement of Defense is included as Exhibit 14 to this report. To summarize the Statement, the Ritz Carlton disagrees that it continues to violate the terms of the Permit. To address the ongoing problems, the Ritz Carlton proposes to move the parking to another portion of the hotel premises. Their Statement of Defense includes their proposal to move the parking (Please refer to Exhibit 14 for site layout and location of new parking area) and restates their desire to settle this matter with the Commission. However, the North Central District Office, who now has regulatory jurisdiction over this permit, has indicated to Commission enforcement staff that the proposed relocation area will not improve public access to parking at the hotel and will likely make the problem worse, since the new area is both farther within the hotel premises and would be adjacent to other high-use areas subject to special events, hotel guest use and Ocean Colony Association club members within the Ritz Carlton

property. Accordingly, Commission enforcement staff has not been able to reach an agreed-upon settlement with the Ritz Carlton.

Owner's Defense:

1. "From the opening of the Ritz-Carlton hotel in March 2001, the coastal access program implemented by the developer/owner has been extremely well received by members of the public...Over 250,000 visitors have stayed at the Ritz-Carlton, Half Moon Bay since opening..."

Commission's Response:

The Commission agrees with the Ritz Carlton's assertion that the Miramontes Point and Ritz Carlton Hotel coastal access program has been well received by members of the public. The Commission also notes that significant historic and existing public use was demonstrated to have occurred on the property prior to approval of the Permit by the Commission. In light of prior public use and attendant rights, when the original Permit application was considered by the Commission, the Commission could only find the proposed resort hotel consistent with Chapter 3 public access and recreational policies of the Act by requiring the Ritz Carlton to implement a coastal access program of trails, bike paths, bluff top overlooks, public restrooms and support public parking. One aspect of the required public access program has not been successfully implemented by the Ritz Carlton and that aspect consists of the 25 public parking spaces available on hotel premises.

Owner's Defense:

2. "One area of the coastal access program that has not functioned as well as originally contemplated...is the portion of the on-site coastal access parking program located in the hotel's Valet Parking Garage...the owner/developer has not failed to provide any required public access facilities. Rather, based upon the allegations in the NOI, the owner/developer appears to have experienced operational problems from time to time in providing convenient and welcoming public access to the existing Valet Parking Garage...we concede that some operational problems probably did occur although we have not been supplied with specific information related to who filed the complaints and the details of the complaints.

Mr. Ratchford, the new hotel general manager, attended a meeting on March 4, 2004 with Coastal Commission staff ...and outlined steps that have been taken...to assure the hotel's compliance...Steps...include:

- Renewed employee training program...;
- Change in staffing of the hotel greeter station from hotel's ...security department to the more welcoming guest services department;

- Commitment to manning the greeter station during daytime hours seven days a week (as opposed to the previous practice: weekends, holidays and whenever the hotel occupancy exceeded 50%).”

Commission's Response:

The Ritz Carlton admits there have been reported operational failure to consistently provide 25 onsite parking spaces. The operational failure may be in part due to human staff error and changes in hotel management. The Commission has contacted the Ritz Carlton many times after it has received a complaint from the public, and has documented specifically what has occurred to the Ritz Carlton in several phone calls, letters, and at least three face-to-face meetings, as noted in earlier sections of this report. The Commission is not obligated to disclose the identity of persons who have complained about possible Coastal Act violations concerning the lack of parking availability. In fact, such a requirement could clearly chill the right of the public to report such violations.

The Commission acknowledges that the Ritz Carlton has tried to improve the situation several times over the past three years, but these efforts have proven to be unsuccessful. The public parking must be accessible at all required times and should not depend on which Ritz Carlton staff are working at any given time. The Order will eliminate the possibility of human error by Ritz Carlton staff by making entry to the hotel parking available to the public without staff interaction, through installation of machines that can issue a permit to open the guard gates at the parking structure. The machine to be installed at the garage would receive the issued ticket from the machine to be located at the greeter's station to allow the public entry (the guard gates automatically raise when one is leaving the garage). The Order also requires implementation of training for all Ritz Carlton staff, so that the Permit's requirements are met, and requires that if any members of the public inquire about any kind of public access (trails, beach or parking) the Ritz Carlton staff is required to inform the public about the onsite public parking. The Order also requires the Ritz Carlton to produce and make available to the visiting public a brochure that maps and locates all the public access amenities available on the Hotel premises (as well as those immediately adjacent north and south to the Ritz Carlton). Finally, the Order requires the installation of signs to show the public the availability of *both* parking areas: the 15-space lot at the Canada Verde Beach access way and the 25-spaces available in the Ritz Carlton parking garage. The new signs will be placed within the 15-space lot and on Miramontes Point Road adjacent to the 15-space lot. The new signs will indicate that 25 more spaces are available within the Ritz Carlton's hotel parking garage.

Owner's Defense:

3. "...In order to eliminate the potential for human error in the future, the hotel owner and manager have recommended that the 25 parking spaces...be

relocated to a new area in the middle of the hotel property adjacent to the coastal trail. These spaces would be designated for coastal access parking only and would provide members of the public the opportunity to self-park without an interface with the hotel valet parking staff...

Commission's Response:

The proposed relocation area is not acceptable to the Commission's North Central District permit staff and management for a variety of reasons, including concerns that it would not meet the intent of the original Permit conditions. The area is farther within the hotel premises and proposed to be located adjacent to the existing Ocean Colony Association club facilities. Some of the existing parking allocated to club usage would be re-designated for public coastal access parking and additional new spaces would be created from existing open lawn space. The proposed relocation area is likely to result in conflict between club members, hotel guest using club facilities and the general public trying to access the coastal trails. In the recent past, the Ritz Carlton has used the lawn area (where they propose to relocate the parking) for overflow parking, and Ocean Colony Association members have objected. The Ritz Carlton has also allowed helicopter landings and the erection of a large tent in this area. During the meeting between Ritz Carlton staff and the Commission staff held on March 4, 2004, the Ritz Carlton general manager, Paul Ratchford, indicated that the Ritz Carlton is pursuing a permit with the City of Half Moon Bay to erect a large tent for eight months of the year, or for short-term special events, such as weddings. The proposed tent location is directly adjacent to the proposed relocation of public parking and would likely result in conflicts.

Despite proposals by the Ritz Carlton to provide more staff to minimize any conflict between user groups and the proposed relocated parking spaces, the Commission cannot find the alternative location to be acceptable under the original Permit. Therefore, the Order requires the Ritz Carlton to implement measures to ensure the consistent availability of the existing 25 public parking spaces in the hotel garage, to assure compliance with the original Permit.

Therefore, the Order requires the Ritz Carlton to implement measures to ensure the consistent availability of the existing 25 public parking spaces in the hotel garage, consistent with the original Permit requirement. The Order will require the Ritz Carlton to eliminate human interface by installing machines to issue and collect permits both at the greeter station and the parking garage. The Order requires all Ritz Carlton employees to receive training on the requirements of the Permit. In addition, the public brochure identifying parking areas as well as the additional signage should eliminate any confusion about where public parking exists on hotel property.

Staff recommends that the Commission issue the following Cease and Desist Order:

CEASE AND DESIST ORDER

Pursuant to its authority under Public Resources Code Sections 30810, the California Coastal Commission ("Commission") hereby orders and authorizes the Ritz Carlton Hotel Company, LLC ("Respondents"), their employees, agents, and contractors, and any persons acting in concert with any of the foregoing to cease and desist from 1) undertaking on the property identified in Section F any activity or development that is inconsistent with CDP No. 3-91-71/1-95-47 as approved by the Commission; 2) undertaking on said property any development that requires a Coastal Development Permit, without obtaining such a permit, and 3) maintaining on said property any such development. Consistent with Public Resources Code Section 30810(b), the Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the original Permit. Accordingly, through the execution of this Order, the Respondents and all persons identified in Section F hereof are ordered to comply with the following terms and conditions.

TERMS AND CONDITIONS

1.1 Provision of Public Parking Spaces and Public Signage

1. Respondents shall immediately and on an ongoing basis, ensure that 25 public parking spaces are available for public use on the Hotel premises at all times, without charge. Respondents shall clearly identify and isolate 25 contiguous spaces from other available Hotel parking within its parking garage so that the 25 spaces are easily identified and accessible by the public. Additional signage shall be placed adjacent to the 25-space area, showing the way from the parking garage to the public access trails on the hotel premises.
2. Within 30 days of the date of issuance of this Order, Respondents shall prepare and submit, subject to the review and approval of the Executive Director of the Commission, a revised signage plan to be implemented on and adjacent to hotel premises, as originally required by the Permit. The plan shall include, but not be limited to: 1) additional signage adjacent to public parking located in the hotel parking garage as indicated in section 1 of this Order; 2) a sign to be posted on Miramontes Point Drive, adjacent to the existing 15-space lot for Canada Verde beach access. The sign shall indicate that the lot is a public parking lot and that 25 additional public parking spaces are available within the Ritz Carlton garage. The proposed wording and design of the signs must be reviewed and approved by the City of Half Moon Bay prior to submittal to the Executive Director of the Commission; 3) an identical new sign to be placed within the 15-car parking lot at Canada Verde that indicates that 25 additional

public parking spaces are available within the Ritz Carlton parking garage; 4) a new sign to be erected at the intersection of One Miramontes Drive and Highway One that states that Free Public Parking is available within the Ritz Carlton Parking Garage; and 5) revised signage for the Hotel Greeter Station. There shall be two signs placed on the Hotel Greeter station: one that can be viewed from the road as visitors approach the station and one that can be viewed by the driver of a vehicle that stops parallel to the station. The signs shall indicate the availability of the 25 public parking spaces in the hotel garage, and shall explain how to obtain a parking permit for entry into the hotel garage.

3. Within 30 days of receiving notice of the Executive Director's approval of the signage plan, the Respondents shall implement the approved parking and signage. Photographs of the subject property shall be submitted to the Executive Director to document the identified parking area and the placement of required signs.

1.2 Installation of Parking Permit Machines

1. In order to ensure compliance with the original Permit's access requirements, within 30 days of the issuance of this Order, Respondents shall submit, for the review and approval of the Executive Director, a plan for installation of a permit-issuance machine at the hotel greeter station and a similar machine to receive the issued permits and allow entry into the hotel garage to be installed at the public entrance to the Ritz Carlton parking garage. The machines shall allow the public to receive a parking permit and to enter and exit the parking garage without human interface.
2. Respondents shall install the machines and have them working within 30 days of Executive Director approval.

1.3 Public Access Brochure or Pamphlet

1. In order to ensure that the public is knowledgeable of their rights at coastal visitors to the property, consistent with the terms of the original Permit, within 30 days of the date of issuance of this Order, Respondents shall submit, subject to the review and approval of the Executive Director, a draft brochure or pamphlet that identifies and describes all coastal access amenities adjacent to and on hotel premises. The pamphlet shall clearly identify both public parking areas, all coastal trails, bike paths, the bluff-top overlook and the public restroom facilities. The pamphlet shall describe available hours and any limitations on use of any of the facilities consistent with CDP 3-91-71/1-95-47. Finally, the Respondents shall make the brochure or pamphlet available at its greeter station and shall make sure

that copies of the approved brochure are always available for the public at that location.

1.4 Employee Training on Coastal Access Parking and other amenities

1. Within 30 days of the date of issuance of this Order, Respondents shall submit, subject to the review and approval of the Executive Director, its employee-training program for ensuring compliance with the Permit and this Order. The Respondents' employees shall be required to inform anyone who makes *any* inquiry about trails, the beach, coastal access, the bluff-top overlook, or parking about the onsite, free public parking within the hotel garage.

IDENTIFICATION OF THE SUBJECT PROPERTY

The property that is the subject of this Order is the property located at One Miramontes Point Road, Half Moon Bay, San Mateo County, APNs 066-092-780 and 066-092-770.

DESCRIPTION OF ALLEGED COASTAL ACT VIOLATIONS

The violations that are the subject of this Order include the Respondents' failures to provide the public access to 25 public parking spaces as required in CDP No. 3-91-71/1-95-47. Respondents' failures are not in compliance with previously issued CDP No. 3-91-71/1-95-47, which required the provision of 25 public parking spaces and the public's right to access the 25 spaces.

COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these alleged Coastal Act violations pursuant to Public Resources Code Section 30810. The Respondents' failures to provide access to the 25 parking spaces is in non-compliance with previously issued CDP No. 3-91-71/1-95-47. Therefore, for the purposes of issuance and enforceability of this Order, the Commission has jurisdiction to act as set forth in this Order, and Respondents agree that they will not contest the Commission's jurisdiction to issue or enforce this Order.

FINDINGS

This Order is issued on the basis of the findings adopted by the Commission, as set forth in the attached document entitled "Staff Report for Cease and Desist Order No. CCC-03-CD-14."

EFFECTIVE DATE

This Order shall become effective as of the date of issuance by the Commission and shall remain in effect permanently unless and until rescinded by the Commission.

COMPLIANCE OBLIGATION

Strict compliance with this Order by all parties subject thereto is required. Failure to comply with any term or condition of this Order, including any deadlines contained in this Order as approved by the Commission will constitute a violation of this Order and may result in the imposition of civil penalties of up to six thousand dollars (\$6,000) per day for each day in which such compliance failure persists.

DEADLINES

The Executive Director for good cause may extend deadlines. Any extension request must be made in writing to the Executive Director and received by Commission staff at least ten (10) days prior to expiration of the subject deadline.

APPEAL

Pursuant to PRC section 30803(b), any person or entity against whom this Order is issued may file a petition with the Superior Court for a stay of the order.

ACCESS

Respondents agree to provide access to the subject property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under this Order. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the subject property on which the violation is located, and on adjacent areas of the property to view the areas where development is being performed pursuant to the requirements of the Order for purposes of inspecting and reviewing the progress of Respondents in carrying out the terms of this Order.

GOVERNMENT LIABILITIES

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Order. Respondents acknowledge and agree (a) to assume the risks to the property that is the subject of this Order and damage from such hazards in connection with carrying out activities pursuant to this Order; and (b) to unconditionally waive any claim of damage

or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

SUCCESSORS AND ASSIGNS

This Order shall run with the land binding all successors in interest, future respondents of the property, interest and facility, heirs and assigns. Respondents shall provide notice to all successors, heirs and assigns of any remaining obligations under this Order.

Executed in Santa Barbara on April 16, 2004, on behalf of the California Coastal Commission.

PETER DOUGLAS, Executive Director

EXHIBITS

1. Location Map.
2. Location of onsite free public parking and location of offsite, free Canada Verde parking.
3. Signed Notice of Intent to Issue CDP 3-91-71/1-95-47 and CDP 3-91-71/1-95-47.
4. Letter dated June 26, 2001, from Commission staff to Mr. John Berndt, General Manager for the Ritz Carlton Half Moon Bay.
5. Letter dated July 12, 2001, from Mr. Berndt to Commission staff.
6. Letter dated February 14, 2002, from Commission staff to Mr. Jeffrey J. Mongan, Senior Vice President, The Athens Group, on behalf of the Ritz Carlton.
7. Letter dated March 25, 2002, from Mr. Mongan to Commission staff.
8. Letter dated April 17, 2002, from Commission staff to Mr. Mongan.
9. Letter dated May 1, 2002, from Mr. Mongan to Commission staff.
10. Letter dated August 7, 2002, from Commission staff to Mr. Richard Johnson, Executive Assistant Manager, the Ritz Carlton Half Moon Bay.
11. Letter dated August 29, 2002, from Mr. Johnson to Commission staff.
12. Letter dated October 23, 2003, from the Executive Director of the Commission issuing a Notice of Intent (NOI) to commence Cease and Desist Order proceedings.
13. Letter dated February 26, 2004, from Commission staff re-instating a deadline for the submittal of the Statement Of Defense and notifying the Ritz Carlton of the staff's decision to schedule a hearing for formal Cease and Desist Order proceedings.
14. Statement of Defense received on March 15, 2004.

LOCATION MAP

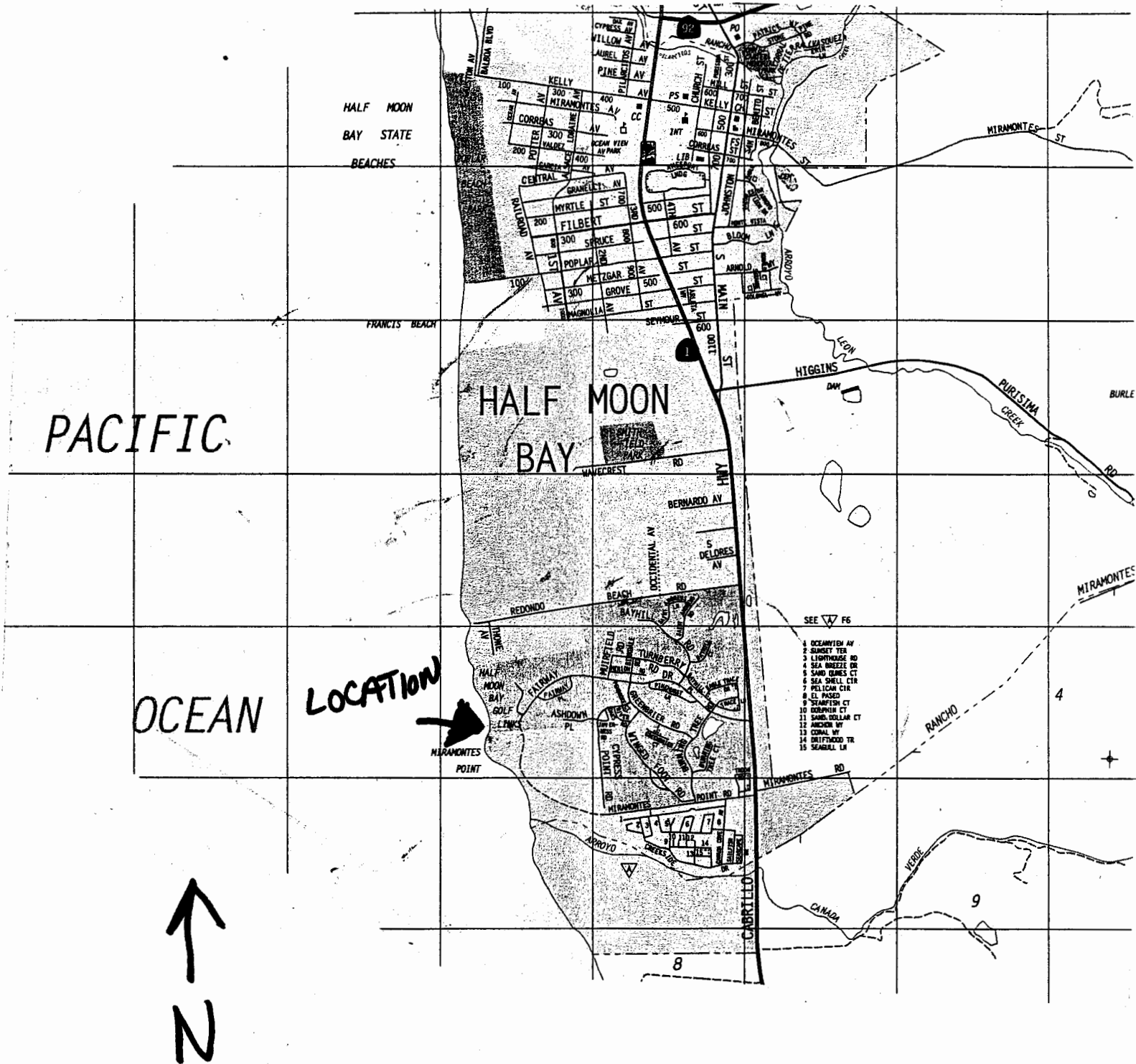
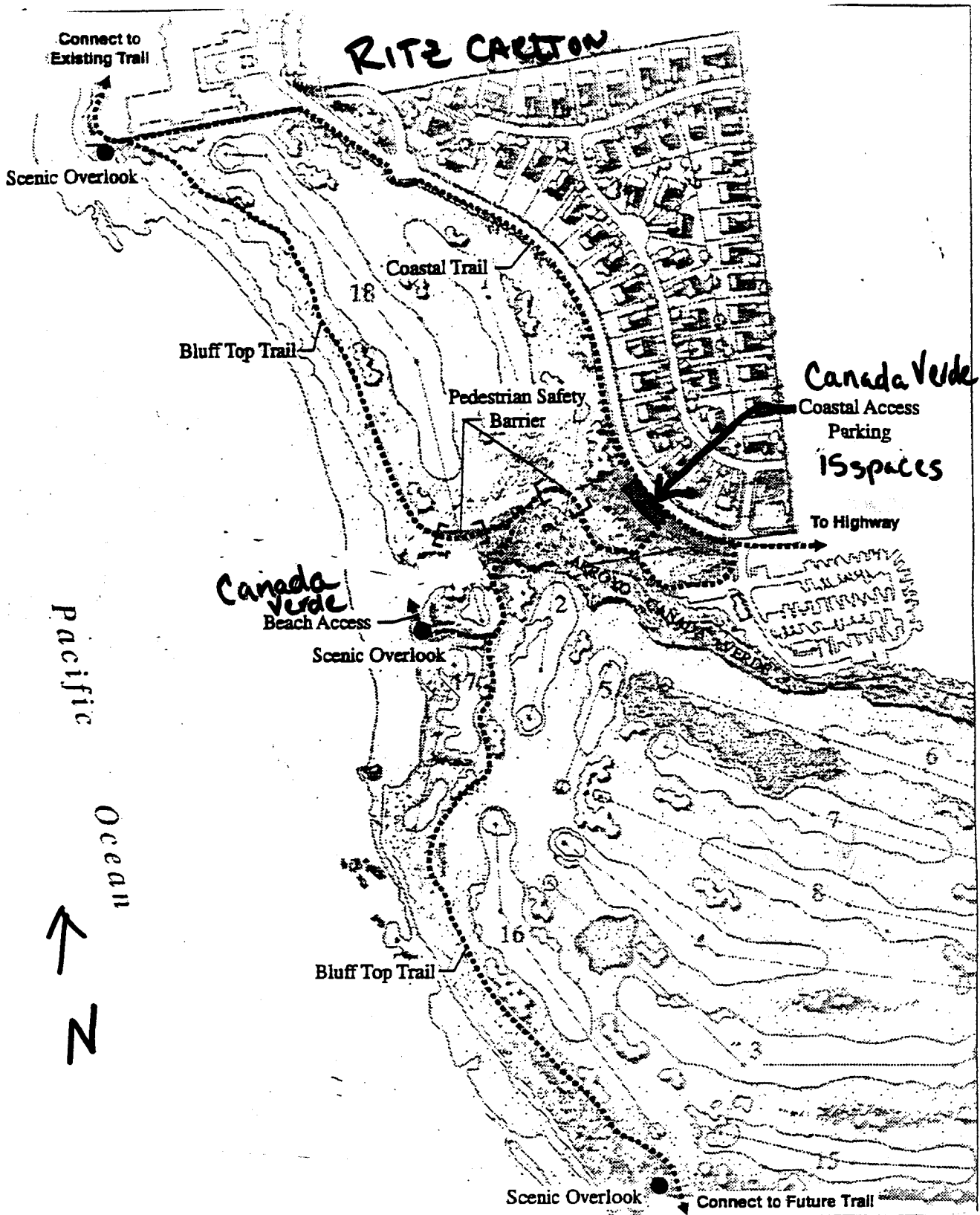


Exhibit #1
CCC-03-CD-014



OFFSITE PARKING AT CANADA VERDE

Exhibit #2
CCC-03-CD-014

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
640 CAPITOLA ROAD
SANTA CRUZ, CA 95062
(408) 479-3511



Page 1 of 2

Date: April 24, 1992

Permit Application No. 3-91-71

NOTICE OF INTENT TO ISSUE PERMIT

On October 10, 1991, by a vote of 9 to 1, the California Coastal Commission granted to HALF MOON BAY RESORT PARTNERS and CITY OF HALF MOON BAY Permit 3-91-71, subject to the attached conditions, for development consisting of:

350 unit resort hotel complex, land division, and extension of Miramontes Pt. Road (see Finding 1 for complete description); more specifically described in the application file in the Commission offices.


The development is within the coastal zone in San Mateo County, including the hotel portion, at 200 Fairway Drive, seaward of Ocean Colony at Miramontes Pt.; and the road portion, from existing Miramontes Pt. Road to hotel site, City of Half Moon Bay.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions 4, 6, 7, 9, imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission on April 24, 1992.

PETER DOUGLAS
Executive Director

By:

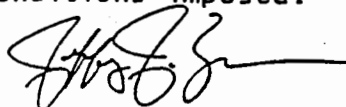

Les Strnad
Chief of Permits

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. 3-91-71, and fully understands its contents, including all conditions imposed.

APRIL 29, 1992

Date



Permittee

Please sign and return one copy of this form to the Commission office at the above address.

A5: 4/88 5884A

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CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA
 45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 (415) 904-5260

COASTAL DEVELOPMENT PERMIT

On October 10, 1991, the California Coastal Commission granted to
HALF MOON BAY RESORT PARTNERS & CITY OF HALF MOON BAY.
 this permit subject to the attached Standard and Special conditions, for development
 consisting of
350 unit resort hotel complex, land division, and extension of Miramontes Pt.
 Road (see Finding 1 for complete description),

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone in the San Mateo County, including
 the hotel portion at 200 Fairway Drive, seaward of Ocean Colony at
 Miramontes Pt.; and the road portion, from existing Miramontes Pt. Road to
 hotel site, City of Half Moon Bay.

Since approval of the project, the permit has been assigned to VESTAR-
 ATHENS/YCP II Half Moon Bay, L.L.C.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
 Executive Director

By ROBERT S. MERRILL
 Title Chief of Permits

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide
 by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4
 which states in pertinent part, that: "A public entity is not liable for injury caused by
 the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE
 PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE
 COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

 Date

 Signature of Permittee

/lrc
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Exhibit #3
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COASTAL DEVELOPMENT PERMIT

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

COASTAL DEVELOPMENT PERMIT

SPECIAL CONDITIONS:

Please see the Special Conditions on the attached Adopted Staff Report Conditions.

1. Incorporation of City Conditions.

The conditions of City of Half Moon Bay Site and Design Permit No. PSD-19-89 and Use Permit No. UP-14-89 (Exhibit B, attached) are hereby incorporated as conditions of this permit. Any changes in the City permit conditions shall be submitted for review by the Executive Director and, if found material, will be subject to approval by the Commission as amendments to this permit.

2. On-site/Ocean Colony Public Access Program.

Permittee shall provide for the establishment of, and arrange for maintenance of, public access facilities to and along the shoreline as follows:

- a. Miramontes Pt. Visitor parking. A public parking area on hotel premises at Miramontes Pt., min. 25 spaces, as provided by the Ocean Colony Planned Unit Development Ordinance (Ordinance No. 4-91). Such parking area shall be open during daylight hours commencing at sunrise and at least until one hour after sunset throughout the year. (With respect to this coastal development permit, permittee may satisfy this condition by demonstrating that a like quantity and quality of parking, along with a paved access road, has been provided as an addition to the required parking at the seaward end of Redondo Beach Road).
- b. Miramontes Pt. Overlook. A blufftop scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Pt. Such overlook shall be designed to accommodate at least one visitor (paying or non-paying) per every 5 hotel rooms at any one time, and shall include a safety rail or barrier which does not interfere with public views, and benches or lawn chairs. The overlook's structural features shall be designed to facilitate relocation as needed to respond to shoreline erosion, and their retention in situ shall not be considered justification for future shoreline protection works. The public use area shall include at a minimum the entire area of the hotel parcel falling between the bikeway route and the bluff-edge safety rail, adjusted as necessary to insure that the combined

width of the bikeway and public use area is never less than 30 ft. in width as measured from the seaward (westernmost) wall of the hotel.

- c. Connecting path. A paved sidewalk or pedestrian access path for public use, at least 5 ft. in width, between the hotel's public parking area (2.a above) and the blufftop overlook (2.b above), connecting to the bikeway leading to Redondo Beach (2.d below).
- d. Coastside Bikeway segment. A hard surface (chip seal asphalt or equivalent) off-road bikeway, generally 10 feet in width, with a parallel unpaved (jogging) path 2 feet in width, connecting the extended Miramontes Pt. Road, the blufftop overlook area (2.b above), and the southern end of Olive Avenue. Where obstacles such as wetland habitat zones prevent path construction at full width, variance may be allowed for a combined bicycle-pedestrian path, which in no event is less than 8 ft. in width. Secure bicycle parking shall be provided near the hotel's public use areas.
- e. Roadside bike lanes. Bicycle lanes, or hard surface shoulders at a combined width of at least 10 ft., connecting the hotel site to State Highway Route 1. The bicycle route should be separated from Miramontes Pt. Road by barriers or landscaping. Where right-of-way constraints prevent such separation, the bike route shall be clearly marked by shoulder stripes, and automobile parking that would impair bicycle access shall be prohibited.
- f. Canada Verde beach parking. Parking spaces or pullouts along the new portion of Miramontes Pt. Road, suitable for parking for scenic viewing or beach visits, minimum 15 spaces.
- g. On-site/Ocean Colony area vertical beach access. A pedestrian access path parallel to the drainage swale dividing the 18th fairway of the Ocean Colony golf course. Such access path shall connect the Miramontes Pt. Parking area (2.a above) to the beach via the adjoining segment of the Coastside Bikeway. Seaward of the bikeway, the beach access path shall include an all-weather surface at least 8 ft. in width, with stairway from bluff edge to beach. The accessway shall be designed to avoid interference with golf play and to prevent injury to pedestrians. Appropriate design measures include excavations below grade, berming, and wire mesh safety barriers. The pathway shall be designed and located to preclude any significant disruption of existing riparian vegetation. Any reductions of riparian vegetation shall be offset with an equal or greater area of riparian enhancement vegetation. Signage shall be included to warn pedestrians of potential danger during periods of high surf or storm conditions.

As an alternative, the applicant may provide stairway access to Canada Verde Beach. Such stairway access shall connect via pathway to the Coastside Bikeway (2.d above) in the vicinity of Miramontes Point overlook (2.b above) southwest of the hotel site and shall be in general conformance with the beach access stairway included in the city's approvals.

(Permittee may satisfy this condition by demonstrating that equivalent off-site pedestrian access facilities including all-weather paths and stairways, linking the hotel site (Miramontes Point overlook) to the beach at the mouth of Canada Verde canyon and to the beach at the end of Redondo Beach Road, have been provided.

- h. Signage. Access routes, public parking, Miramontes Pt. Overlook, and public restrooms shall be clearly marked for public use. The text, design and location of such signs, which shall be clearly visible, shall be subject to Executive Director review and approval prior to installation.
- i. Restrooms. An enclosed public restroom facility, equivalent to at least two portable toilets for each gender, and conforming to California Department of Parks and Recreation standards for such facilities, shall be provided on the hotel site convenient to the Miramontes Pt. Overlook or the vertical beach access path. One of the restrooms in the hotel's public areas may be identified and signed for this purpose. (Permittee may also satisfy this condition by demonstrating that equivalent off-site restroom capacity has been provided as provided in Special Condition no. 3.f below.)

3. Off-site Public Access Program.

Because there will not be adequate room to provide for a satisfactory range of low/no cost recreational facilities on the hotel site, the hotel permittee shall be responsible for providing such facilities at adjacent and nearby locations. Permittee shall make a diligent, good faith effort to perform the requirements under part I of this condition, immediately below. Permittee shall, within six months of the date of Commission approval of this permit, submit for Commission review and approval a plan and schedule for implementing Part I below. This plan shall identify a methodology for planning, locating, permitting, design, construction and maintenance of off-site public access facilities described in Part I. If permittee is prevented from performing the requirements under Part I, permittee shall comply with the terms of part II of this condition.

PART I

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CCC-03-CD-014

PRIOR TO OCCUPANCY OF HOTEL, permittee shall submit final, City-approved plans, together with all necessary property interests, offers to dedicate access easements (in conformity with the terms of 4.b., below) and a construction schedule demonstrating that the off-site access improvements required hereunder shall be completed no later than six months from the date of occupancy.

- a. Coastside Bikeway segment. A hard surface (chip seal asphalt or equivalent) off-road bikeway, 10 feet in width, with a parallel unpaved pedestrian (jogging) path 2 feet in width, connecting the end of the on-site bikeway segment (2.d, above) at the southern end of Olive Ave. to the seaward end of Redondo Beach Road. Secure bicycle parking shall be provided near the Redondo Beach Accessway (3.c below). Subject to the Executive Director's review and approval, the bikeway alignment may be adjusted to accommodate future uses approved pursuant to the North Wavecrest Redevelopment Plan.

- b. Canada Verde beach access paths. Pedestrian access paths and stairway connecting the hotel site and Miramontes Pt. Road parking areas to Canada Verde beach, with stairway located at or near lowest point of bluff at mouth of canyon. Path surface to be at least 5 feet in width, and improved with asphalt, decomposed granite or other surface materials for all-weather use. The hotel-Canada Verde beach path shall be located entirely seaward of the extended Miramonte Pt. Road and, unless provided otherwise by a Coastal Commission-approved South Wavecrest Redevelopment Plan or prevented by lack of ownership interest, shall be located within 100 ft. of the seaward edge of the coastal bluff top. Secure blufftop bicycle parking shall be provided for beach users. If path crosses Canada Verde Stream, bridge location, design and installation procedure shall be subject to review by the California Department of Fish and Game; appropriate stream alteration agreement or other evidence of Department of Fish and Game approval shall be submitted. Subject to Executive Director review and approval, the pedestrian path alignment may be subjected to accommodate future uses approved pursuant to the South Wavecrest Redevelopment Plan, or to consolidate stream crossings on a single bridge.

- c. Redondo Beach accessway. An improved overlook, beach access stairway, and 25 space public parking facility at the seaward end of Redondo Beach Road. This amount shall be increased to 50 spaces if no on-site public parking is provided at Miramontes Pt. The improved overlook shall be handicapped-accessible. The overlook's structural design shall adhere to the same standards as provided for the Miramontes Pt. Overlook (2.a above). The stairway design shall conform to applicable standards listed for vertical access (2.g above).

- d. Redondo Beach Road repairs. Repair of Redondo Beach Road to provide suitable all-season access to the shoreline. Such road surface shall be of chip-seal asphalt or equivalent.
- e. Signs and trash receptacles. Access routes, public parking, overlook, and public restrooms shall be clearly marked for public use. The text, design, and location of such signs, which shall be clearly visible, shall be subject to Executive Director review and approval prior to installation. Trash receptacles shall be provided and shall be emptied as frequently as necessary to maintain the facilities in a clean and attractive condition.
- f. Restrooms. Enclosed restroom facilities shall be provided and maintained for public use at: 1) south of the hotel site, to serve Canada Verde beach – unless one of the restrooms in the hotel's public area is identified and signed for this purpose; and 2) the end of Redondo Beach Road. The minimum standard for each facility shall be the equivalent of two portable toilets at each site, conforming to California Department of Parks and Recreation standards for such facilities, screened or sheltered in a manner acceptable to the City's architectural review board.

PART II

If the permittee is not able to comply with the terms of Part I above within the required period, in the alternative and in addition to the On-site/Ocean Colony access programs required in condition 2 above, permittee shall participate in the completion of off-site public access improvements within the adjacent North and South Wavecrest Redevelopment areas, including roads, trails, parking facilities, restrooms and vertical accessways. Permittee's participation shall be in the form of a cash deposit, in an account designated by the Executive Director, in the amount of \$250,000 payable to the California Coastal Commission or the California Coastal Conservancy. Such deposit shall be available for distribution to a public agency or a private non-profit association designated in writing by the Executive Director of the Coastal Commission exclusively for the acquisition of land and/or construction of public access improvements within the North and South Wavecrest Redevelopment areas. Such funds shall be deposited PRIOR TO OCCUPANCY OF HOTEL.

4. Implementation of On-Site/Ocean Colony and Off-site access Programs.

Detailed plans for each access feature listed above shall be provided for Executive Director review and approval. In the case of On-site/ocean Colony access features required in Condition 2 above, such plans shall be submitted PRIOR TO ISSU OF THE COASTAL DEVELOPMENT PERMIT. In the case of Off-site access

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required in Condition 3, above, plans submitted in compliance with Part I of Condition 3 shall be submitted PRIOR TO OCCUPANCY OF HOTEL. In the event Condition 3 is implemented under the terms of Part II thereof, permittee's cash deposit shall be made PRIOR TO OCCUPANCY OF HOTEL. Such plans shall include any necessary supporting documents, including but not limited to the following:

- a. Within hotel/Ocean Colony property, offer to dedicate pedestrian and bicycle access easement(s) to City of Half Moon Bay, Department of Parks and Recreation, Coastal Conservancy, or other appropriate public agency approved by the Executive Director.
- b. For each Off-site access improvement, either the City or the hotel applicant shall provide legal documents (such as a dedicated right-of-way, access easement, irrevocable offer to dedicate easement, binding agreement with public agency, or combination thereof) demonstrating the necessary property interest(s) for trail construction.
- c. For all offers to dedicate easement, the following procedures shall apply. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT in the case of all On-site/Ocean Colony access requirements, and PRIOR TO OCCUPANCY OF HOTEL in the case of all Off-site access requirements, the land shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for passive recreational use and public access to and along the shoreline, as applicable. The document shall provide that, in conformity with Section 30212 of the Coastal Act, any Off-site accessways shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of said accessways. Notwithstanding, the document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easements shall be a minimum of 15 feet wide; and, shall encompass the Miramontes Pt. Overlook public use area (2.b above), the on-site Coastside Bikeway segment (2.d above), the on-site/ocean Colony vertical beach access (2.g above) if required, the off-site Coastal Bikeway segment (3.a above) except where located on existing public lands or street rights-of-way, the Canada Verde beach access paths (3.a above) except where located on existing public lands or street rights-of-way, and all areas of the hotel property which may fall between the toe of the bluff and the mean high tide line of the sea. The recorded document(s) shall include legal descriptions of both the applicant's entire parcel and the easement area. The document(s)

shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect said interest. The offer shall run with the land in favor of the People of the State of California binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

- d. Identification of construction schedule, funding sources and other arrangements needed to complete the approved trails, restrooms, parking and road improvements in accordance with the Part I access plan and schedule required in condition 3 above. While it is the responsibility of the hotel permittee to insure that the required access and low cost recreational facilities are provided, the terms of this permit shall not be construed to discourage cooperation, assistance, funding or other coordination by the City, the Calif. Coastal Conservancy, the Calif. Dept. of Recreation, or other access providers and managers.
- e. (Intentionally left blank.)
- f. A repair and maintenance program. Within permittee's property, permittee shall arrange for repair and maintenance of the trail, which shall be maintained at original width and surface quality. Permittee shall likewise be responsible for repair of and arrangements for maintenance of, the On-site/Ocean Colony access facilities installed pursuant to this permit, except where such responsibility is assumed by a public agency. Permittees may contract with public agency or others to perform this function. This obligation shall run with the land and shall be recorded in accordance with the following standard procedures:
- g. Identification of management entity. This may be the permittee, the City, the California Department of Parks and Recreation, or other authority subject to concurrence by the Executive Director. It is recognized that the management responsibility may be split, changed or reconstituted from time to time, subject to concurrence by the Executive Director.
- h. Proposed restrictions and limitations on public use; provided, however, that nothing in this condition shall be construed as requiring permittee to operate these access facilities during severe storms or other conditions presenting any unavoidable, clear and present danger of bodily harm to trail users, nor during hours of darkness commencing one hour after sunset. The management entity(ies) for the various access facilities shall post and enforce restrictions to preclude motor vehicle use of trails, restrict unleashed dogs and firearms, discourage

littering, prevent open fires, and similar measures designed to promote the safety and enjoyment of the visitor experience.

On-site/Ocean Colony public access programs shall be fully implemented PRIOR TO OCCUPANCY OF HOTEL.

5. Low cost recreation facilities/in-lieu fee

In addition to the on-site and off-site access programs listed above, permittee shall insure that a reasonable amount of low cost overnight recreational accommodations are provided as well. Because no low cost overnight accommodations are provided on-site, this obligation shall be met by construction of campground facilities, complete with flush-toilet restrooms, with sufficient tent camp sites including picnic tables and automobile parking to serve the equivalent of 20% of the hotel rooms which are constructed. Such campground facilities shall be located either within the City of Half Moon Bay or within 5 miles of the approved hotel site; shall be ready and opened to public use PRIOR TO OCCUPANCY OF HOTEL; and shall be available at market-rates or the current rate charged by the California Dept. of Parks and Recreation for comparable facilities, whichever is less. The design of the campground restroom and other associated facilities shall meet current applicable standards recommended by the Calif., Dept. of Parks and Recreation. The location, final design, and legal arrangements to insure that the campsites shall always be available at low cost for the duration of the permitted structures, shall be submitted for review and approval by the Coastal Commission WITHIN 90 DAYS FOLLOWING COMMENCEMENT OF CONSTRUCTION of the permitted hotel. Such submittal shall be accompanied by evidence of compliance with the Calif. Environmental Quality Act (CEQA) and local governmental approval; or if on federal land, equivalent review under federal law.

As an alternative, permittee may elect to comply with this condition through payment of a fee in lieu of campground construction. In such event, permittee shall make a cash deposit, in an account designated by the Executive Director, in an amount not less than \$350,000 payable to the California Coastal Commission. Such deposit shall be available for distribution to a public agency or a private non-profit association designated in writing by the Executive Director of the Coastal Commission (including, but not limited to, the Calif. Dept. of Parks and Recreation) for the acquisition of land and/or construction of low cost visitor serving overnight accommodations within or near the City of Half Moon Bay. Such funds shall be deposited, beginning with 10% of the total due PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, and the balance PRIOR TO OCCUPANCY.

Provision of campground facilities and/or in-lieu fees may be phased in tandem with, and proportionate to, the number of hotel rooms approved for construction under any phase of the approved project.

6. Prohibition on Conversion to Exclusive Use.

Exhibit #3
CCC-03-CD-014

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence to the Executive Director that a deed restriction has been recorded for the hotel site which indicates that this coastal permit authorizes the development of a 350 unit resort hotel, which is a proposed visitor serving use exclusively available to the general public. Furthermore, the deed restriction shall specify that conversion of any portion of the approved facilities to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public is specifically not authorized by this permit and would require an amendment to this permit or a new permit and/or amendment to the certified LCP in order to be effective.

7. Geologic Hazards; Waiver of Liability, Assumption of Risk.

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction or other document in a form and content acceptable to the Executive Director which shall provide: (a) that the applicant understands that the project site may be subject to extraordinary natural and manmade hazards including but not limited to shoreline erosion, structural failure, earthquakes and related seismic hazards and other geologic conditions; and, (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission approval of the project for any damage caused by the project and/or due to natural or manmade hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens. In accepting this permit, permittee acknowledges that there is no entitlement to shoreline protection works at end of project life or in event of unexpected rates of erosion. Permittee may have to dismantle portions of hotel and reroute bikeway in such event.

8. Containment of debris and construction impacts.

Temporary exclusion fencing (9.b below) shall be in place before grading. Location of such fences shall be flagged in the field and shall be subject to Executive Director review and approval PRIOR TO COMMENCEMENT OF GRADING. No disposal of spoils or debris over cliff shall be allowed. Disposal location of excess spoils and debris shall be subject to Executive Director review and approval if within the Coastal Zone.

9. Review of Final Plans.

Final construction, grading, drainage, erosion control and landscaping plans shall be submitted for Executive Director review and approval PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT.

Exhibit #3
CCC-03-CD-014

- a. Maximum height of hotel shall not exceed the height of the development as illustrated in the plans submitted with the application.
- b. Grading plan shall show location of temporary exclusion fence for protection of riparian habitat and sensitive bluff edge area.
- c. Drainage and erosion control plan to include measures for prevention of saturation and gulying of bluff edge, on and off hotel site. Also show discharge points and energy dissipation methods for drainage from Miramontes Point Road.
- d. Site Plans shall show revised hotel, bungalow, road parking and tennis court siting, particularly as may be required to accommodate the required on-site access program.
- e. Construction plans for on-site and off-site access improvements shall be included.
- f. Final plans for Miramontes Point Road shall include final alignment and limits of right of way and shall be accompanied by encroachment permit, if required by Caltrans, and shall detail any changes to the configuration of Highway 1 that may be needed to serve this project.
- g. Landscape plans shall conform with City of Half Moon Bay Land Use Plan standards, and shall include details of the proposed wetland mitigation planting program (species, location, installation procedures, monitoring). The wetland mitigation program shall be accompanied by evidence of review and approval by the Calif. Dept. of Fish and Game, and shall implement the recommendations of the "Concept Mitigation Plan" contained in the biologic report of 10/1/90 by Dr. Mills.

10. Measures to Assure Adequate Sewage Treatment Capacity

- a. In order to avoid the possibility that the project might preempt or deplete sanitary sewer capacity needed by developments previously approved by the Coastal Commission, the project will be phased to provide for a maximum of 275 guest rooms until permittee demonstrates to the satisfaction of the Commission that a greater number is warranted on the basis of 1) increased sewer treatment system capacity, b) decreased demand (such as availability of abandoned sewer connections), c) expiration of prior permits, or d) comparable measures which will assure adequate sewer capacity for all projects previously approved pursuant to coastal development permits within the City of Half Moon Bay portion of the Sewer Authority Midcoastside (SAM) service area. In event the Commission confirms the availability of the necessary sewage treatment capacity, final plans

for the remaining units shall be provided to the Executive Director for review and approval as provided by Special Condition No. 9 above.

- b. In order to determine actual effluent flow rates from this project, a recording sewage flow meter shall be installed and maintained in a manner satisfactory to the City Engineer.
- c. Until the Commission confirms the availability of the necessary additional sewage treatment to serve all 350 units at full occupancy, the following procedure will apply. If, on a calendar per year basis, average daily dryweather flows from this development exceed 33,000 gallons per day (gpd), permittee shall provide to the City of Half Moon Bay or Sewer Authority Midcoastside (SAM), funds sufficient to offset the added costs of treating the excess effluents. Such funds shall be deposited in an account specifically earmarked for treatment capacity improvements. The actual pro-rata amount of such required deposit shall be based on cost estimates provided by SAM, but for purposes of this condition are limited to a maximum of ten thousand dollars (\$10,000) per year for each 1,000 gpd in excess of the 33,000 gpd average annual base rate.

11. Entrance Sign(s).

Plans for the entrance sign(s) shall be submitted for review and approval by the Commission, and shall be accompanied by evidence of approval by the City's Architectural Review Board.

CALIFORNIA COASTAL COMMISSION

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



26 June 2001

Mr. John Berndt
General Manager
Ritz Carlton Half Moon Bay
1 Miramontes Point Road
Half Moon Bay, CA 94019

RE: **Alleged Coastal Act Violation No. V-2-01-11 (Vestar-Athens/Ritz Carlton);**
Reported violations of special conditions of CDP 3-91-71 (renumbered as 1-95-47)
concerning public access and parking improvements

Dear Mr. Berndt:

I have received a number of reports from various members of the public and Coastal Commission staff members who have experienced difficulty trying to park and otherwise use the designated public access amenities at the Ritz Carlton. We are concerned that the requirements of CDP 3-91-71 (later renumbered as CDP No. 1-95-47) have not been properly implemented, and that a Coastal Act violation exists.

As you know, Coastal Permit No. 3-91-71, later renumbered as CDP 1-95-47, includes a number of special conditions requiring public access and parking improvements at the Ritz Carlton. Special Condition No. 2 requires (a) a 25-spot public parking area on hotel premises that is open during daylight hours; (b) a blufftop scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Point; (c) a paved sidewalk or pedestrian access path for public use between the hotel's public parking area and blufftop overlook, connecting to the bikeway leading to Redondo Beach; (d) an off-road bikeway with a parallel unpaved pedestrian path connecting the extended Miramontes Point Road, blufftop overlook area, and southern end of Olive Avenue; (e) bike lanes connecting the hotel site to Highway One;

Exhibit #4
CCC-03-CD-014

(f) 15 parking spaces or pullouts along the new portion of Miramontes Point Road suitable for scenic viewing or beach visits; (g) a pedestrian access path parallel to the drainage swale dividing the 18th fairway of the Ocean Colony golf course, connecting the Miramontes Point parking area to the beach via the adjoining segment of the Coastside Bikeway; (h) signage clearly marking for public use all access routes, public parking, Miramontes Point overlook, and public restrooms; and (i) an enclosed public restroom facility.

In November of 1998, Mr. Mongan submitted final revised access plans to Commission staff in compliance with special conditions of the permit. These plans were approved by the Executive Director. I have attached a copy of the relevant portion of the approved plan, which delineates the location of the dedicated public access stalls. The plan shows 23 standard stalls on the second level of the structured parking, as well as two handicap public access stalls near the greeting station. (The 15 parking spaces required by Special Condition No. 2(f) of Coastal Permit No. 3-91-71 were also required as a condition of Coastal Permit No. 1-94-04, issued to Ocean Colony Partners for construction of a golf course and other amenities. These spaces have been constructed.)

Over the last few weeks, we have received numerous complaints concerning public access and parking at the site. People complained variously that there were no longer any signs designating public parking, that there were no handicap spaces as were designated on the project plans, that the entrances to all three levels of the parking garage were blocked by a sign saying "valet parking only," that there were only nine garage spaces marked for public use rather than the required 23, that they were asked to pay as much as \$10 to park, that they had been told that there was no public parking, and that they had been told that the public parking area had been moved because the garage spaces weren't working out for the hotel. Just last week, a visitor was told by a perplexed hotel employee to park "where the caddies park," or in the delivery area.

It appears that all the requirements of your coastal permit are not being met, thus constituting a Coastal Act violation. I spoke with Jeff Mongan earlier this month, and he indicated that you and he had met with Ken Curtis of the City of Half Moon Bay, and had discussed this situation. He also indicated that steps were being taken to rectify the problem. At this time, it does not appear that adequate steps have been taken to rectify the problem, since as recently as June 22nd, hotel employees appeared not to know how to deal with requests for public parking, and to be unaware that public parking was permitted on the hotel grounds.

Please respond in writing by July 16, 2001 indicating what steps are being taken to rectify the alleged Coastal Act violations. Please also indicate when the situation will be corrected so that I can arrange to conduct a site visit to ascertain that all special conditions are being complied with.

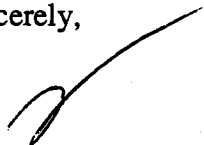
If you have any questions, please don't hesitate to call.

Exhibit #4
CCC-03-CD-014

JOHN BERNDT
Page No. 3

Thank you for your cooperation.

Sincerely,



JO GINSBERG
Enforcement Analyst

Attachment

cc: Chris Kern
Ken Curtis
Jeff Mongan
Virginia Esperanza
Linda Locklin

Exhibit #4
CCC-03-CD-014

Page 3 of 3



THE RITZ-CARLTON®
HALF MOON BAY

July 12, 2001

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

RE: Alleged Coastal Act Violation

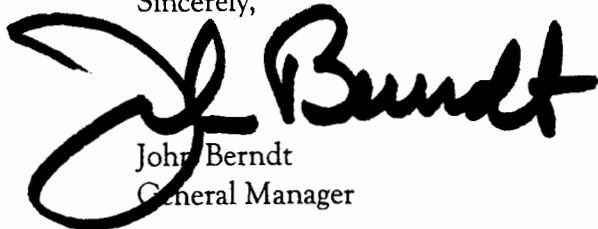
Dear Mr. Ginsberg,

Thank you for bringing to our attention the complaints regarding public coastal access parking. We appreciate you bringing these concerns to our attention.

We apologize for any confusion caused to the public by our staff responses. We have reviewed our processes and administered additional training to the guest service employees involved in greeting, directional escorting and parking. We will be administering on going self audits and continuous training to achieve more consistent reliable results.

I enclose our process procedure description, copy of our logbook and passes issued upon request. Please visit when your schedule permits and I will review our entire procedures, manning guide and training scripts with you thoroughly. We welcome your observations, comments and suggestions. We are dedicated to fulfilling our coastal requirements and guest expectations.

Sincerely,



John Berndt
General Manager

Exhibit #5
CCC-03-CD-014



CALIFORNIA COASTAL COMMISSION

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



14 February 2002

Jeffrey Mongan, Senior Vice President
The Athens Group
2425 East Camelback Road, Suite 1025
Phoenix, AZ 85016

RE: Alleged Coastal Act Violation No. V-2-01-11 (Ritz-Carlton): Possible non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47

Dear Mr. Mongan:

As I indicated in our telephone conversation today, we have received another complaint regarding the public access amenities at the Ritz-Carlton. A visitor to the Ritz-Carlton informed us that the greeting station was unattended, and that after following the public access signs to the parking structure, she was faced with several "Valet Parking Only" signs, as well as guard gates. Unable to enter the parking structure, she spoke to the valet, and told her that she wished to park in the public access parking area so that she could use the public access trail. The valet seemed a little puzzled, then said, "Oh yes, the Coastal Commission requires public parking." She thought for a moment, and then told the visitor that she could just open the gate and let the visitor into the parking garage. The valet noticed a free spot in the service vehicle area, and directed the visitor to that spot. She seemed unaware that there were supposed to be 25 designated public parking spaces in the garage.

In the past, we have had several similar complaints from members of the public who had experienced difficulty trying to park and otherwise use the public access amenities required by **CDP No. 3-91-71/1-95-47**. As a result, Coastal Commission enforcement staff opened the above-referenced Coastal Act violation file regarding the Ritz-Carlton's lack of compliance with the terms and conditions of **CDP No. 3-91-71/1-95-47**, which requires, among other things, 25 public parking spaces on hotel premises. After several phone conversations and meetings over the last six months with you, Mr. Berndt, and Mr. Johnson, it appeared that our concerns had been addressed and resolved. We were assured that the problems had to do with Ritz-Carlton staff being new and untrained concerning the public access requirements, and that the problems would be rectified.

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It now appears that this is not the case. It appears that Ritz-Carlton staff is still uninformed that there are supposed to be 25 designated public access parking spaces available within the parking structure. In addition, the signs at the parking structure that say "Valet Parking Only" are discouraging to visitors wishing to use the public access amenities at the Ritz-Carlton.

Please take immediate steps to rectify this situation, and inform us in writing what these steps are. Please submit a written description of how the problem has been rectified by 25 February 2002. Failure to do so may result in further enforcement action, including the issuance of a cease and desist order, or referral of the violation to the Attorney General's office for litigation.

If you have any questions regarding the alleged Coastal Act violation matter, please do not hesitate to call me at (415) 904-5269.

Thank you.

Sincerely,



JO GINSBERG
Enforcement Analyst

- cc: Chris Kern, Coastal Commission
Peter Imhof, Coastal Commission
Linda Locklin, Coastal Commission
John Berndt, Ritz-Carlton General Manager
Richard Todd Johnson, Ritz-Carlton Executive Assistant Manager

March 25, 2002

Via Facsimile: 415-904-5400

Ms. Jo Ginsberg
Enforcement Analyst
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Ritz-Carlton, Half Moon Bay
CDP No. 3-91-71/1-95-47
Alleged Coastal Act Violation No. V-2-01-11

Dear Ms. Ginsberg:

The purpose of this letter is to confirm our telephone conversations after receiving your February 14, 2002 letter. Subsequent to our telephone conversation I spoke with Mr. John Berndt and Mr. Richard Johnson at the Ritz-Carlton, Half Moon Bay. They initiated an internal investigation of the incident raised in your letter. The valet attendant who was involved with this situation provided a different account of the incident.

By way of background, this valet attendant has been with The Ritz-Carlton, Half Moon Bay for some time and, contrary to the statement in your letter, is quite familiar with the procedures for coastal access parking. The visitor was directed to the valet attendant by the signage we have on site. The valet attendant was asked where the coastal access parking was and she responded by telling the visitor that she could lead the visitor there (to the middle level of the parking structure). Just as she was about to do so a parking spot opened up nearby and the valet attendant asked if the visitor would like to take that spot; and the visitor did so.

I also met with Mr. Johnson at the Ritz-Carlton, Half Moon Bay on February 21, 2002. We reviewed the procedures again for coastal access parking. I am confident that the Ritz-Carlton management team is doing an admirable job of accommodating the visiting public and maintaining compliance with the requirements for coastal access parking.

Please understand that we have accommodated thousands of visitors at The Ritz-Carlton, Half Moon Bay without a complaint since your visit to the hotel last August. I don't think it is fair to imply that we have a systematic problem with coastal access when one complaint is brought forward in six months; and this visitor was provided parking for

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CCC-03-CD-014

2425 East Camelback Road, Suite 1025
Phoenix, Arizona 85016
602/648-6520 • FAX 602/648-6530

Page 1 of 2

coastal access. Nevertheless, we will continue to strive to improve our procedures for coastal access parking including additional directional signage.

As always we are happy to meet with you to review our coastal access parking procedures and supply you with the parking logs maintained at the property. Please don't hesitate to contact me at 602-648-6531 if you need any additional information. Also, Richard Johnson can be reached at the Ritz-Carlton, Half Moon Bay at 650-712-7000.

Sincerely,

VESTAR-ATHENS/YCP II HALF MOON BAY, LLC



Jeffrey J. Mongan
Senior Vice President

Cc: John Berndt
Richard Johnson
Chris Kern
Peter Imhof
Linda Locklin

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CALIFORNIA COASTAL COMMISSION

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



17 April 2002

Jeffrey Mongan, Senior Vice President
Vestar-Athens/YCP II Half Moon Bay, L.L.C.
2425 East Camelback Road, Suite 1025
Phoenix, AZ 85016

RE: **Alleged Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Possible non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47**

Dear Mr. Mongan:

Thank you for your letter dated 25 March 2002 concerning possible non-compliance with the terms and conditions of **Coastal Permit No. 3-91-71**, which was later renumbered as **CDP No. 1-95-47**.

We appreciate that the Ritz-Carlton may intend to make the system that is currently in place work to provide coastal access parking to the public as required by **CDP No. 1-95-47**. However, we continue to receive complaints from members of the public who have had difficulty trying to park on Ritz property so that they can use the public access trail located on the Ritz property. In addition, when I was in the area on Tuesday, April 9 conducting site visits, I visited the Ritz-Carlton along with several co-workers and encountered the same problems about which we have been hearing for months.

When we drove up to the Ritz-Carlton greeting station at about 3 p.m. on April 9th, it was unmanned, as it frequently has been when members of the public have visited the site, according to recent reports. There is no sign at the greeting station directing members of the public to the on-site Ritz-Carlton public access parking. As one drives in past the greeting station and continues along the road, there is a small sign on the grass to the right of the road that says, "Coastal Access Parking." However, this sign seems to point to nowhere. If one continues along the road, one sees the parking structure on the left, with gates down, locked, and impassable. On Tuesday there was no attendant there and no sign or further instructions on how to proceed. We continued along the road, and saw that the surface parking lot to the right had a

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Page 1 of 3

"Lot Full" sign posted. We drove around the facility, but saw no one to ask about parking. Finally, we drove up to the front of the hotel, and an attendant greeted us at our car. We asked where the public parking was for visitors who wanted to use the access trail, and he tried to direct us off the hotel grounds to the 15-space County-run parking area along Miramontes Point Road. We persisted in our request for on-site parking. We told the attendant that we believed there was on-site parking for coastal access, and he said that he had worked at the Ritz since it had opened, and he didn't know about any on-site parking, and continued to direct us off the site. At that point, Nancy Cave, the Coastal Commission's Northern California Enforcement Supervisor, told the attendant that we were from the Coastal Commission and that there was supposed to be public parking in the parking structure. He did not know what we were talking about.

Shortly thereafter we encountered another attendant near the "Pro Shop," and asked her about public access parking for the trail. She indicated that she did know what we were talking about, and that there were spots inside the parking structure, but that she was too busy to help us. We told her that the attendant we had encountered in front of the hotel had said there was no public parking for coastal access on the site, and she said he must have been a new employee. We pointed out that he had told us he had worked at the Ritz since it opened. She directed us back to the hotel, and said that if we told the valet there what we needed, he would "buzz us in" to the garage. It appeared that the person she was directing us to ask to be "buzzed in" to the garage was the same person who had told us that he did not know anything about public parking for coastal access.

I have had several similar complaints from members of the public who telephoned us to say that there was no greeter at the greeting station, that the signs are not helpful, and that there was no way into the parking structure. In most cases, an attendant eventually arranged for the visitor to gain access to the parking structure, but only after the visitor drove around in confusion for some time, trying to figure out where the public access parking was located.

In your letter dated 25 March 2002, you state that when a visitor who complained to the Commission entered the site "the visitor was directed to the valet attendant by the signage we have on site." I do not know to which signage you are referring. There is a Coastal Access sign and arrow on Highway One, pointing toward Miramontes Point Road, but no further information. There is no sign at the greeting station directing visitors to the public parking. There is a mysterious sign in the grass that says "Coastal Access Parking" with an arrow, but it doesn't seem to be directed anywhere in particular, and certainly does not lead to any available parking. There are no informative signs on the parking structure, or anywhere else that we could see.

It seems clear that the current system for providing the public with coastal access parking is not working. Four Coastal Commission staff persons who knew that there were designated parking spaces in the parking structure and were fully aware of the requirements of **CDP No. 3-91-71/1-95-47**, and who repeatedly requested information from Ritz-Carlton employees, were unable to gain access to the designated spaces. We drove around the site for more than fifteen minutes trying to find someone who could give us proper instructions on how and where to park. We

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CCC-03-CD-014

were told by a seasoned employee that there was no public parking on the site for coastal access, and were directed off-site. Most visitors would have given up long before we found a valet who was actually familiar with the procedures. This is not acceptable.

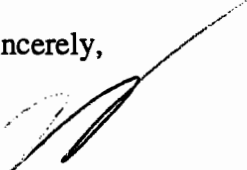
We believe there is a simple solution to the problems that visitors have raised. Better signage would make clear where and how visitors could park. A sign at the greeting station saying something like, "Public Coastal Access Parking in the Garage, See Valet for Entry," plus a sign on the garage itself saying, similarly, something like, "Public Coastal Access Parking Inside Garage, See Valet for Entry" would be very helpful when there is no one at the greeting station, and no attendants immediately visible at the garage.

We would like to resolve this problem as expeditiously as possible, and we hope you will continue to cooperate with us to this end. Please respond by April 29, 2002 with a plan for better signage. We would happy to meet with you or with others from the Ritz-Carlton if that is appropriate. Failure to comply with the special conditions of **Coastal Permit No. 3-91-71/1-95-47** may result in our elevating the violation to our Statewide Enforcement Unit for further enforcement action.

If you have any questions regarding the alleged Coastal Act Violation, please do not hesitate to call me at (415) 904-5269.

Thank you.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Chris Kern, Coastal Commission, North Central Coast District Supervisor
Peter Imhof, Coastal Planner
Chanda Meek, Coastal Planner
Lisa Haage, Assistant Chief of Enforcement
Nancy Cave, Northern California Enforcement Supervisor
John Berndt, Ritz-Carlton General Manager
Richard Todd Johnson, Ritz-Carlton Executive Assistant Manager

Exhibit #8
CCC-03-CD-014

May 1, 2002

Via Facsimile: 415-904-5400

Ms. Jo Ginsberg
Enforcement Analyst
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Ritz-Carlton, Half Moon Bay
CDP No. 3-91-71/1-95-47
Alleged Coastal Act Violation No. V-2-01-11

Dear Ms. Ginsberg:

The purpose of this letter is to respond to your letter of April 17, 2002. In order to avoid future complaints the Ritz-Carlton management team is implementing several changes to the current parking system. As you pointed out in your letter the problems we have experienced relate to the times when the greeter station is not staffed. Effective immediately Ritz-Carlton has instituted the following changes:

1. The Greeter's Booth will be staffed from sun up to sun down on Friday, Saturday and Sunday as well as holidays and days where the hotel occupancy is projected to be over 50%. This will provide a greeter to direct visitors and members of the public to the various parking facilities, including the coastal access parking.
2. The hotel will purchase and install two additional directional signs to direct visitors to the coastal access parking facilities. One of the signs will be located at the greeter station and one sign will be at the entrance to the parking structure where the coastal access parking is located.
3. The hotel will continue to log and review all requests for coastal access parking including license plate #'s.
4. The hotel will continue to certify all employees on the education, training and responses for coastal access parking requests.

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Ms. Jo Ginsberg
May 1, 2002
Page two

We are confident that these enhancements to our current parking management system will enhance the visitor experience and address the deficiencies you and your colleagues experienced on your recent visit.

Please call me at 602-648-6531 if you have any further questions or concerns.

Sincerely,

VESTAR-ATHENS/YCP II HALF MOON BAY, LLC



Jeffrey J. Mongan
Senior Vice President

Cc: John Berndt – Ritz-Carlton
Richard Johnson – Ritz-Carlton
Chris Kern – Coastal Commission
Peter Imhof – Coastal Commission
Chanda Meek – Coastal Commission
Lisa Haage – Coastal Commission
Nancy Cave – Coastal Commission

Exhibit #9
CCC-03-CD-014

CALIFORNIA COASTAL COMMISSION

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



7 August 2002

Richard Johnson
Executive Assistant Manager
The Ritz-Carlton Half Moon Bay
One Miramontes Point Road
Half Moon Bay, CA 94019

RE: **Alleged Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47**

Dear Mr. Johnson:

I would like to thank you and Mr. O'Bryan for meeting with us yesterday concerning compliance with the terms and conditions of **Coastal Permit No. 1-95-47** (formerly **CDP No. 3-91-71**) (the "Permit"). At our meeting, to ensure compliance with the Permit, you agreed to do the following:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.
2. Change the existing policy of having the Greeter ask visitors who wish to use the public access facilities at the Ritz for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.
3. Ensure that when prospective visitors to the Ritz are greeted at the Greeter's Station, the staff there provides complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the garage, and will not direct people to the County parking lot located off-site near the trailhead.

Exhibit #10
CCC-03-CD-014

Page 1 of 2

RICHARD JOHNSON

Page No. 2

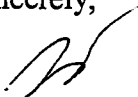
4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it, and there is no valet in sight.
5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz, and not occupied by other cars.

You have indicated that these procedures will all be in place within 30 days; that is, no later than September 5, 2002. Please confirm in writing by that date that these procedures have been implemented. We hope that utilizing these new procedures will finally resolve outstanding issues of permit condition compliance, and end complaints from the public about difficulty in using the public access amenities at the Ritz Carlton.

Please be advised that if the Ritz-Carlton does not come into compliance with **CDP 1-95-47** with respect to this issue, we will recommend formal action by the Commission to resolve this matter. The formal action could include a civil lawsuit, the issuance of a cease and desist order, and/or imposition of monetary penalties.

Thank you for your cooperation.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Chris Kern
Peter Imhof
Linda Locklin
Jeff Mongan

Exhibit #10
CCC-03-CD-014

Page 2 of 2



THE RITZ-CARLTON®
HALF MOON BAY

Exhibit #11
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Page 1 of 2

August 29, 2002

Ms. Jo Ginsberg
Enforcement Analyst
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Dear Ms. Ginsberg:

It was a pleasure meeting with you and your team from the California Coastal Commission in reference to our compliance with the terms and conditions of CDP No. 3-91-71/1-95-47. In response to the points in your letter of August 7 we have addressed them as follows:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.

We have already mounted the sign as worded and located as requested.

2. Change the existing policy of having the Greeter ask visitors who wish to use the public access facilities at the Ritz for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.

We have coached our Greeter Booth staff to only ask for the license plate number of the vehicle inquiring of Public Coastal Parking to enable us to keep track of the usage of these parking spots. We will, however, continue our Warm Welcome policy of asking all guests visiting our hotel their names so we can announce and prepare best to receive them at our Front Office. This practice is part of our culture and our philosophy.

3. Ensure that when prospective visitors to the Ritz are greeted at the Greeter's Station, the staff there provides complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the garage, and will not direct people to the County parking lot located off-site near the trailhead.



We will ensure that when prospective visitors to The Ritz-Carlton are greeted at the Greeter's Booth, the staff there provides complete and accurate information about the existing public access facilities on-site. We will ensure when the staff is asked about public parking, beach parking, public trails etc., the staff will properly inform visitors as to the location and availability of the 25 parking spaces in the garage and will not direct people to the County parking lot located off-site.

4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it, and there is no valet in sight.

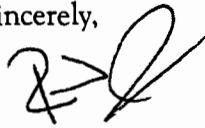
The Greeter's Booth now radios ahead to valet attendants to inform a coastal access visitor is approaching enabling the visitor to be met and greeted by staff and escorted to designated parking spaces.

5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz, and not occupied by other cars.

We will continue to monitor and reserve 25 parking spaces to ensure use for visitors seeking public parking, beach parking, public trails, etc.

Our mission, Ms. Ginsberg, is to abide by the Coastal Access Agreement, CDP No. 1-95-47 and comply with the terms and conditions therein. We will continue to monitor our Greeter Booth staff and all processes you have brought to our attention. Our intentions are to continue to serve our community by contributing increased efforts to provide access to all who enjoy the coastside. We appreciate your assistance and support in our continuous improvement process.

Sincerely,



Richard Johnson
Executive Assistant Manager - Rooms Division

RJ/mm

Exhibit #11
CCC-03-CD-014

CALIFORNIA COASTAL COMMISSION

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



SENT BY CERTIFIED MAIL
No. 7002 0460 0003 8376 4457

October 23, 2003

Paul Ratchford
Executive Assistant Manager
The Ritz Carlton, Half Moon Bay
Ritz Carlton Hotel Company, LLC
One Miramontes Point Road
Half Moon Bay, CA 94019

RE: Notice of Intent to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47;

Property Address: One Miramontes Point Road, Half Moon Bay, San Mateo County; APNs 066-092-780 and 066-092-770

Dear Mr. Ratchford:

This letter is to notify you of my intent to commence proceedings for the issuance by the California Coastal Commission of a Cease and Desist Order to the Ritz Carlton, Half Moon Bay and Ritz Carlton Hotel Company, LLC (hereinafter "Ritz Carlton") to address continuing non-compliance with the terms and conditions of **Coastal Development Permit No. 3-91-71/1-95-47** ("the Permit")¹.

The Permit includes a number of special conditions requiring public access and parking improvements at the Ritz Carlton facilities at One Miramontes Point Road, Half Moon Bay. Special Condition No. 2 of the Permit requires (a) a 25-spot public parking area on hotel premises that is open during daylight hours; (b) a bluff top scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Point; (c) a paved sidewalk or pedestrian access path for public use between the hotel's public parking area and bluff top overlook, connecting to the bikeway leading to Redondo Beach; (d) an off-road bikeway with a parallel unpaved pedestrian path connecting the extended Miramontes Point Road, bluff top overlook area, and southern end of Olive Avenue; (e) bike lanes connecting the

¹ CDP 3-91-71 was renamed and subsequently renumbered as CDP 1-95-47.

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hotel site to Highway One; (f) 15 parking spaces or pullouts along the new portion of Miramontes Point Road suitable for scenic viewing or beach visits; (g) a pedestrian access path parallel to the drainage swale dividing the 18th fairway of the Ocean Colony golf course, connecting the Miramontes Point parking area to the beach via the adjoining segment of the Coastside Bikeway; (h) signage clearly marking for public use all access routes, public parking, Miramontes Point overlook, and public restrooms; and (i) an enclosed public restroom facility.

Special Condition No. 4 of the Permit requires the above-identified access related amenities required in Special Condition No. 2 to be incorporated into revised project plans that are approved by Commission staff. In November of 1998, Jeffrey Mongan of The Athens Group submitted final revised access plans to Commission staff in compliance with this requirement. The Executive Director approved these plans. The approved plans show a total of 25 public parking spaces: twenty-three (23) standard stalls located on the second level of the structured parking; and two (2) handicap public access parking stalls located near the hotel greeting station.

For nearly two years, Commission staff has received ongoing complaints from members of the public and from staff who have experienced difficulty utilizing the required coastal access and public parking improvements on the Ritz Carlton property. Such failure to provide public access in conformance with the approved plans constitutes a violation of the requirements of the Permit, and therefore the Coastal Act. Since we first contacted the Ritz Carlton regarding these complaints in June of 2001, Commission staff has repeatedly received assurances from Ritz-Carlton management that these problems have been rectified; yet we continue to receive complaints, indicating that the Ritz Carlton has failed to adequately comply with the Permit's conditions. Since all other measures have failed, in order to ensure compliance with the conditions of the Permit, I am therefore recommending that the Commission issue a Cease and Desist Order to ensure compliance with the terms and conditions of the Permit.

History of the Violation Investigation

Commission staff first notified Richard Johnson, then executive assistant manager, of the violation on the Ritz Carlton property in a letter dated June 26, 2001, from the North Central Coast District Enforcement Officer Jo Ginsberg. Ms. Ginsberg informed Mr. Johnson that Commission staff had received numerous complaints concerning lack of public access and parking at the Ritz Carlton site, indicating that people had complained that: (1) there are no longer any signs designating public parking; (2) there are no handicap spaces as were designated and approved on the project plans; (3) the entrances to all three levels of the parking garage are blocked by a sign saying "valet parking only"; (4) there are only nine garage spaces marked for public use rather than the required 25; and (5) Ritz Carlton staff require visitors to pay as much as \$10 to park, and/or tell them a) that there is no public parking, b) that the public parking area has been moved because the garage spaces aren't working out for the hotel, and/or c) to park in the delivery area or "where the caddies park."

In a letter to Ms. Ginsberg dated July 12, 2001, John Berndt, General Manager of the Ritz Carlton, stated that additional training to the guest service employees had been provided, and that he was dedicated to fulfilling the Ritz Carlton's coastal requirements.

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Following a meeting with Commission enforcement staff, Mr. Johnson wrote a letter dated August 29, 2001 to Ms. Ginsberg stating that he would do everything in his power to comply with what he referred to as the "Coastal Access Agreement." We assume Mr. Johnson was referring to the approved access plans, required by and approved as part of the Ritz Carlton's coastal development permit.

In subsequent correspondence dated February 11, 2002, Commission staff indicated that another complaint had been lodged concerning continuing problems with the public access amenities at the Ritz Carlton, with the unfamiliarity of Ritz Carlton staff with the public access amenities and the proper procedures for allowing visitors to use these amenities. Commission staff noted that the signs at the parking structure that say "Valet Parking Only" discourage visitors from using the public access amenities at the Ritz Carlton, and that Ritz Carlton staff continues to fail to direct visitors to the 25 designated public access parking spaces in the parking structure and on the Ritz Carlton property that the Permit requires.

A letter from Jeffrey Mongan, Senior Vice President, dated March 25, 2002 assured Commission staff that "the Ritz Carlton management team is doing an admirable job of accommodating the visiting public and maintaining compliance with the requirements for coastal access parking."

During a visit to the Ritz Carlton on April 9, 2002, Commission staff experienced problems accessing the public parking spaces on the Ritz Carlton property. The greeting station was unmanned, there was no sign at the greeting station directing members of the public to the on-site Ritz Carlton public access parking, there was a misleading "Coastal Access Parking" sign that pointed to nowhere, and the parking structure was locked, with gates down, and impassable. Since there was no staff present to ask about parking, they drove to the front of the hotel and asked an attendant where the public parking was for visitors who wanted to use the access trail. The attendant tried to direct them off the hotel grounds to the 15-space County-run parking area along Miramontes Point Road. When Commission staff persisted in their request for on-site parking, the attendant told them he had worked at the Ritz Carlton since it had opened, he was unaware of any on-site parking for public visitors, and he continued to direct them off the site. When Commission staff pointed out that they knew there was public parking in the parking structure, the attendant told them this was not so. These experiences were detailed in Ms. Ginsberg's letter to Mr. Mongan dated April 17, 2002.

In her April 17, 2002 letter, Ms. Ginsberg also indicated that she had received similar complaints from members of the public who telephoned to say that there is no hotel staff at the greeting station, that the signs are uninformative, and that there is no access to the parking structure. The letter further stated that it seemed clear that the Ritz Carlton's system of providing the public with coastal access parking is not working and is unacceptable. Commission staff requested that a sign be posted at the greeting station stating something to the effect of "Public Coastal Access Parking in the Garage, See Valet for Entry." Commission staff also suggested that a similar sign be posted on the garage itself.

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In a letter dated May 1, 2002, Jeffrey Mongan stated that to avoid future complaints, the Ritz Carlton management team was, "effective immediately", implementing several changes to the current parking system, including: (1) staffing the greeter station from sun up to sun down on Friday, Saturday, and Sunday as well as holidays or days where the hotel occupancy was projected to be over 50%; (2) placing two additional signs to direct visitors to the coastal access parking facility, one at the greeter station and one at the entrance to the parking structure; (3) recording and reviewing all requests for coastal access parking including license plate numbers; and (4) providing additional education and training to all hotel employees on the proper responses to coastal access parking requests.

In a follow-up letter dated May 15, 2002, Mr. Johnson indicated that all the proposed changes had been successfully implemented and that the management team was "committed to enhancing the Coastal Access experience at the Ritz Carlton, Half Moon Bay."

In a letter to Mr. Johnson dated May 20, 2002, Commission staff requested that the wording on the proposed new signs be "Public Coastal Access Parking Available in the Garage, See Valet for Entry." The letter also urged Mr. Johnson to monitor the situation to ensure that all terms of the Permit are complied with, that the required public parking is clearly signed and available, and that the public does not encounter further problems. The letter further stated that failure to comply with the terms and conditions of the Permit would result in further enforcement action, including the issuance of a cease and desist order and possible imposition of monetary penalties.

In a subsequent letter to Mr. Johnson dated August 7, 2002, Commission staff reiterated the measures that the Ritz Carlton had agreed would take place to ensure compliance with the Permit:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.
2. Change the existing policy of having the Greeters ask visitors who wish to use the public access facilities at the Ritz Carlton for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.
3. Ensure that hotel staff greeting prospective visitors to the Ritz Carlton at the Greeter's Station provide complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the Ritz Carlton garage, and will not direct people to the 15-space, County parking lot located off-site near the trailhead.

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4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it and there is no valet present.
5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz Carlton and not occupied by other cars.

In a letter dated August 29, 2002, Mr. Johnson addressed all the proposed changes, and indicated that everything in Ms. Ginsberg's letter dated August 7, 2002, had been implemented effective immediately.

Despite all the attempts by Commission staff to identify and address these issues, and the numerous assurances we have been given that the Ritz Carlton staff is dedicated to providing access to the public and to complying with the Permit, we have continued to receive complaints about the inability by visitors to utilize the public access and parking amenities required by the Permit.

For example, in March, 2003, we had a complaint by a member of the public, who stated that he had visited the Ritz Carlton and asked the greeter at the entry gate how he would go about using the coastal trail to look at the beach. The greeter told him that he should turn around and drive back to the public parking lot on Miramontes Drive. The visitor told the greeter that he thought he could park at the Ritz Carlton and just walk along the bluff and look at the view. He was then told that he could look at the view but could not go into the hotel or get to the beach, and that he must return his "Coastal Trail Parking Pass" when he left (repeated twice). He reports that she motioned him on, without explaining where he was to go. He drove to the parking garage, but the gates were down and locked, preventing entry. He drove around looking for a way into the parking garage, and finally pulled up to the front door of the hotel, explaining to the valet that he wanted to park and walk on the coastal trail. The valet checked with someone else, who told the first valet to just park the visitor's vehicle and "comp" him. After his visit, when he wanted to leave, he had to wait about ten minutes to get his car back, because the valets were very busy. There was no greeter at the station when he left so he was unable to return the pass as instructed.

Around the same time, another visitor reported that there was no greeter at the booth, and that when she drove up to the entrance and spoke to a valet, she was directed to park on the roof of the parking structure, and it was unclear how to get to the public access trail from the roof.

On August 3, 2003, a Commission staff member was instructed by the greeter to use the off-site County parking lot when she told him she wanted to access the coastal trail. The greeter made no mention of the on-site parking facilities. The off-site lot was full and no parking was available.

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On August 22, 2003, we received another complaint from a visitor who was sent back to the off-site County parking lot when he asked the greeter where to park in order to access the beach trail. The visitor then called a staff member at the Commission and was told to try again to access on-site parking. The visitor once again approached the greeter's station and was again told to go to the off-site County parking lot. After some questioning, the greeter said that he could issue a pass to the visitor. The visitor was instructed to take the pass to the valet and he would then be let into the garage. After a bit of confusion, trying to find the valet, then the garage, the visitor finally found the on-site parking.

On September 5, 2003, a visitor was given a parking pass, and was told to look for a valet to gain access to the garage. The visitor drove around searching for the valet for three minutes. The visitor did not find a valet, so she drove to the back of the garage. There was no valet. After some time, the visitor talked to a Ritz Carlton employee. When the employee was told that the visitor wished to park and walk on the trail, the visitor was told that the lot was full because the hotel was overbooked. The employee offered to park the car, but the visitor did not want to leave her keys. The employee said the visitor could park at the Tennis and Swim Club, so she drove to the club lot. There were many open spaces, but they were all marked for Club members only. The visitor then left the premises.

On September 22, 2003, the Commission received another complaint. On Labor Day weekend a visitor approached the greeter's station and asked to use the public parking facilities. She was told to use the County public lot on Miramontes Drive. When pressed, the greeter phoned the valet. The valet said there was a space available in the garage, and the visitor was issued a parking pass. The valet met the visitor at the garage entrance, escorted her inside the garage, and directed her into a parking space. None of the other cars in the public spaces had access passes affixed to their rear view mirrors, but all the public spaces were full. There was a valet in the garage moving a car out of a public space, presumably keeping at least one space available for public use. It appeared that the parking spaces reserved for public use were being used for valet parking for hotel guests.

In summary, there is a continuing failure by the Ritz Carlton to implement the public access provisions of the Permit, despite numerous attempts by Coastal Commission enforcement staff to informally resolve the situation, and numerous public efforts to gain entry to the required public access parking. Such violations of the conditions of a permit are violations of the Coastal Act, and because our efforts to informally resolve this situation have been unsuccessful, we now find it necessary to commence formal enforcement proceedings against the Ritz Carlton for violating CDP No. 3-91-71/1-95-47.

New unpermitted activity

Commission staff has received additional complaints of activity conducted by the Ritz Carlton in violation of the Permit. We are in receipt of a letter dated October 21, 2003 to the Ritz Carlton from Jack Liebster, Planning Director for the City of Half Moon Bay (copy enclosed). In that letter, Mr. Liebster indicates that the Ritz Carlton has been parking cars on its lawns, has been utilizing helicopters to transport guests to and from the Ritz Carlton, and has

been erecting a large tent for hotel use. As you should already be aware, all "development" activity, as that term is broadly defined in Section 30106 of the Coastal Act, requires a coastal development permit. Any such development activity without necessary permits is also a violation of the Coastal Act. We understand from the City of Half Moon Bay that the helicopter use was temporary and you have committed to them that such activity will not reoccur. If this is the case, please confirm this to the Commission along with your completed Statement of Defense form. With respect to the parking of cars on the lawns and the erection of a tent, the Permit does not appear to authorize these activities. Please provide assurance that these activities have ceased, if they have, so that we can avoid further enforcement action if possible.

Steps in the Cease and Desist Order Process

Pursuant to Coastal Act Section 30810, the Commission has the authority to issue an Order directing any person to cease and desist if the Commission, after a public hearing, determines that such person has engaged in "any activity that is inconsistent with any permit previously issued by the Commission, or that is not authorized in a coastal development permit." Additionally, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act.

An order issued pursuant to Section 30810 will require that the Ritz Carlton take immediate steps to ensure compliance with the terms and conditions of the Permit concerning public access and public parking and cease and desist from any non-compliance with your permit and the associated conditions.

Please be advised that if the Commission issues a Cease and Desist Order, Section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order for each day in which the violation persists. The penalty for intentionally or negligently violating a cease and desist order can be as much as \$6,000 per day for as long as the violation persists. I also note that Sections 30820 and 30823 of the Coastal Act provide for monetary penalties for violations of permits issued by the Commission.

At this time, the Commission is tentatively planning to hold a hearing on the issuance of a Cease and Desist Order in this matter at the Commission meeting that is scheduled for the week of December 9, 2003 in San Francisco, California.

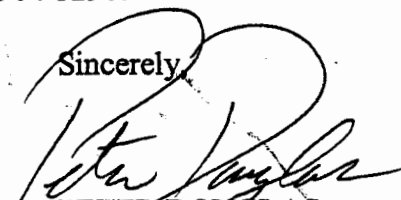
The Commission may issue a *unilateral* Cease and Desist Order that requires actions to remedy the Permit violations at the Ritz Carlton. In addition, the Commission may also seek to impose monetary penalties for the Permit violations that have occurred. If the Commission issues a unilateral Cease and Desist Order to obtain compliance with the Permit, this matter may also be referred to the Attorney General's Office for filing of litigation against the Ritz Carlton to seek civil penalties for past violations. Alternatively, the Commission staff is willing to discuss a negotiated Cease and Desist Order that the Commission would issue with the agreement and consent of the Ritz Carlton. A "consent" Cease and Desist Order is similar to a settlement agreement and would require the Ritz Carlton to agree to its issuance by the Commission prior to

the public hearing. A Consent Order would provide you with an opportunity to have input into the process and timing of the implementation of the remediation plan and would allow you to negotiate a monetary settlement amount with Commission staff.

In accordance with the California Code of Regulations, Title 14, Section 13181(a), you have the opportunity to respond to the staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. **This office must receive the completed Statement of Defense form no later than November 12, 2003.** If you have questions concerning the filing of the Statement of Defense form, please contact Nancy Cave at (415) 904-5290. The filing of the Statement of Defense form is unnecessary if we have agreed on the terms of a Consent Order to resolve this matter. If such agreement were reached, you would be required to stipulate to the facts of the case. You would also need to sign a Waiver of Defenses form indicating your intent to pursue resolution via a Consent Order. Regardless of which option you choose, Commission staff intends to schedule a public hearing on the cease and desist order at the Commission meeting scheduled for December 2003 in San Francisco.

If you have any questions regarding this letter or would like to discuss a Consent Cease and Desist Order, please contact Nancy Cave at 415-904-5290.

Sincerely,



PETER DOUGLAS
Executive Director

Encl.: City of Half Moon Bay letter dated October 21, 2003
Statement of Defense form

cc (w/out enc.): Lisa Haage, Chief of Enforcement
Linda Locklin, Coastal Access Program Manager
Chris Kern, North Central District Supervisor
Nancy Cave, Northern California Enforcement Supervisor
Jo Ginsberg, North Central Coast District Enforcement Officer
Jack Liebster, Planning Director, City of Half Moon Bay
Jeff Mongan, The Athens Group

Exhibit #12
CCC-03-CD-014

CALIFORNIA COASTAL COMMISSION

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



SENT BY FAX AND BY CERTIFIED MAIL
No. 7002 2030 0002 6423 2102

February 26, 2004

Jeffrey J. Mongan, Senior Vice-President
The Athens Group
2425 East Camelback Road, Suite 1025
Phoenix, Arizona 85016

The Ritz Carlton, Half Moon Bay
Ritz Carlton Hotel Company, LLC
One Miramontes Point Road
Half Moon Bay, CA 94109

RE: Coastal Act Violation No. V-2-01-11

Dear Mr. Mongan:

This letter shall serve to notify you, as the representative for the Ritz Carlton Hotel Company, LLC, of the Commission enforcement staff's decision to notice a unilateral hearing on issuance of a Cease and Desist Order to the Ritz Carlton, Half Moon Bay and Ritz Carlton Hotel Company, LLC (hereinafter "Ritz Carlton") for its April Commission meeting. This decision also requires us to re-impose a precise deadline for your submittal of a completed Statement of Defense form. We have reached this decision after failing to reach agreement with the Ritz Carlton concerning terms for a Consent Order proceeding.

As you know, on October 23, 2003, Peter Douglas, Executive Director for the Commission, issued to the Ritz Carlton a Notice of Intent to Commence Cease and Desist Order proceedings to address continuing noncompliance with the terms and conditions of Coastal Development Permit No. 3-91-71/1-95-47 ("the Permit"). A blank Statement of Defense form was included with his letter. In accordance with the California Code of Regulations, Title 14, Section 13181(a), you were given the opportunity to respond to the Commission staff allegations included in the 23 October 2003 letter, by completing and submitting the Statement of Defense form no later than November 12, 2003.

At your request, we extended that deadline without a new deadline date, to determine if the Commission and the Ritz Carlton could agree on terms for a Consent Cease and Desist Order. We have not been able to reach such an agreement. Therefore, we will seek issuance of a cease and desist order at the April Commission meeting, and we must receive the completed Statement of Defense form no later than March 12, 2004.

Exhibit #13
CCC-03-CD-014

As you know, this order proceeding has been necessitated by the Ritz Carlton's repeated failure to provide 25 public parking spaces on hotel premises for the public, as required by the Permit. Our 23 October 2003 Notice of Intent letter documents all the Commission's allegations against the Ritz Carlton. I include a copy of that letter for your convenience.

In discussing terms for a possible order, you asked us to consider a proposed relocation of the 25 existing parking spaces from inside the Ritz Carlton's parking garage to another location on the Ritz Carlton premises. You submitted conceptual drawings and indicated in discussion with Commission staff that you wished to relocate the 25 spaces adjacent to the existing Ocean Colony Homeowners Association ("Ocean Colony Association") Clubhouse. You indicated that existing spaces at the proposed alternative location authorized for Ocean Colony Homeowners Association club members would be relocated in reconfigured parking for the Clubhouse, but did not specifically specify how this would occur.

We have discussed your proposal with Commission staff for the North Central Coast District Office, with City officials for Half Moon Bay, and we have visited the site. We cannot agree that your proposed alternative location is an acceptable location. We believe this proposal is undesirable for several reasons. First, the proposal moves the public parking farther away from the greeter's station and farther into the Ritz Carlton premises adjacent to both Ocean Colony Association facilities and Ritz Carlton facilities. It is our understanding that Ritz Carlton guests currently use the Ocean Colony Association pool and other facilities. We can predict conflict with Association users, hotel guests, and the public desiring to park and walk the public accessways. Further, it is our understanding that the Ritz Carlton is planning to submit a coastal development permit request to the City of Half Moon Bay to place a large events tent adjacent to the proposed relocated parking area. This tent would be erected, as events require, on a more-or-less permanent basis. Again, the placement of this tent would present significant potential conflict among user groups, adding yet another user-group to the mix (event attendees) and does not lead us to believe that the public would be able to park easily at the spot proposed for relocation of the 25 spaces.

We still believe there may be other, more desirable alternative locations that the Ritz Carlton could propose for relocation of the 25 public parking spaces. For example, we understand that you are currently in discussions with the City regarding overflow parking needs and placing cars along one side of Miramontes Road with a valet service. Perhaps the hotel greeter station area could be relocated and the entire entry area reconfigured so that a well identified public parking lot could be placed immediately before the greeter station or just past the greeter station within the hotel premises. If the area was adjacent to the station, it appears that your employees could easily control any perceived conflict without necessitating continued site inspections by Commission staff to ensure compliance with the Permit. Further, it appears that the public desiring to park and utilize public trails could easily do so without conflict with hotel guests or Ocean

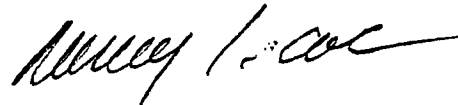
Jeffrey J. Mongan
Ritz Carlton Cease & Desist Order
February 26, 2004

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Colony Association members. Any relocation would be subject to applicable City permit requirements and would require amending the Permit issued by the Commission.

If you have any questions concerning this letter, please do not hesitate to contact me at 415-904-5290.

Sincerely,



NANCY L. CAVE
Northern California Supervisor
Enforcement Program
California Coastal Commission

Enclosure

cc: Lisa Haage
Chris Kern
Jo Ginsberg
Jack Liebster, Planning Director, City of Half Moon Bay

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March 9, 2004

Ms. Nancy Cave
Northern California Supervisor
Enforcement Program
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Notice of Intent to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz-Carlton); Non-Compliance with the terms and conditions of CDP No. 3-91-71/1-95-47; Property Address: One Miramontes Point Road, Half Moon Bay, San Mateo County; APN # 066-092-780 and 066-092-770

Dear Ms. Cave:

Thank you for the meetings we have held with members of the Coastal Commission staff over the past several months. Since our first meeting back in November, we have worked diligently to present various alternatives to improve the coastal access parking program for the Ritz-Carlton, Half Moon Bay. I think our meeting last Thursday with the general manager of the hotel, Paul Ratchford, in attendance was particularly helpful in that it gave the hotel management an opportunity to address some of the problems that occurred last year during the hotel's management transition and reaffirm their commitment to providing an exceptional coastal access program.

We are disappointed that the Coastal Commission staff does not agree with our proposal to build alternative coastal access parking spaces on our property that would eliminate the need to use the valet parking garage. Nevertheless staff and we have agreed to continue to work toward an amicable resolution of this matter so as to avoid a contested hearing. However, you have imposed a March 15, 2004 deadline to submit our Statement of Defense. Therefore, I am submitting this letter with our position statement.

Let me first say that we acknowledge there have been some occasions since the opening of the resort almost three years ago when the on-site public access program has not functioned as we planned. As you know our On-site/Ocean Colony Public Access Program (see Special Condition No. 2 of CDP No. 3-91-71/1-95-47) has two parking

2425 East Camelback Road, Suite 1025
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602/648-6520 • FAX 602/648-6530

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components; a 15-space parking area along Miramontes Point Road proximate to Canada Verde Beach and a 25 space parking area on the second level of the hotel's parking garage. Based on our periodic observations and feedback from the Ritz-Carlton staff, the 15-space parking area along Miramontes Point Road has been very popular with the public. It is used frequently, primarily because it is the closest access point to the beach. However, since opening of the hotel in April 2001, we have interacted on a few occasions with the Coastal Commission staff and with Ritz-Carlton management to address complaints to Coastal Commission staff from members of the public about access to the parking spaces in the hotel parking garage. Quite simply, the program as currently implemented is subject to human error since the public must interact with both the greeter attendant at the end of Miramontes Point Road (which had not been operated continuously until recently) and the hotel valet parking staff. Ritz-Carlton's staff is trained to understand the coastal access parking requirements and how to provide access to the coastal access parking facilities. They understand the location of both the Canada Verde beach access parking and the coastal access parking in the hotel's valet parking structure. Nevertheless depending on how a question is posed by the public relative to the location of parking facilities, the system as currently designed is subject to human error. As an example, if a member of the public is directed to the coastal access parking in the parking garage it is possible that a valet attendant may not get to the garage entry point in time thus causing confusion on the part of the driver who is trying to gain entry to the garage. As a result, and as we discussed at our various meetings since November of last year, our preference is to relocate the coastal access parking from the valet parking garage to the alternative location along the coastal trail as shown in the attached exhibit.

Before focusing on alternatives for improving the current system, let me first state that I believe the coastal access program for the hotel has been very successful. In conducting our internal investigation of the allegations in the Notice you sent, it is evident that thousands of members of the public have visited the hotel and enjoyed the coastal access improvements without complaint. Most people come to enjoy the visitor serving facilities and hospitality provided by the Ritz-Carlton either as an overnight guest, restaurant patron or simply by parking and walking around the hotel and the grounds. Thousands of people have used the new coastal trail improvements and the beach access parking at the Canada Verde beach access. Many people come to the greeter station at the hotel asking the question, "Where is the best place to park to get to the beach?" The Canada Verde beach access parking (the 15-space parking lot along Miramontes Point Road) has generally fulfilled this function by providing parking a short walk from the stairs to the beach. Some people come to the hotel with the expectation that there is a way to get to the beach on the hotel property. As you know, this is not the case as there is no path to the beach on the Ritz-Carlton property. Rather, the only stairs to the beach are to the south of the Ritz-Carlton (at Canada Verde beach), and accessed from the coastal trail along the top of the bluff along the Half Moon Bay Golf Links Ocean Course. Thus we believe some of the complaints mentioned in your letter are based on interpretations of members of the public who may have asked this question and rather than being directed to parking in the garage (which is a much longer walk) they were directed to the best parking area to access the beach (which is not a "County Lot" as referred to in your letter but rather part of our On-Site/Ocean Colony Public Access

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Program). Some members of the public inquire about access to the coastal trail. In this case members of the public are directed to the coastal access parking spaces on the Ritz-Carlton property. In any event, the greeter station attendants are trained to direct members of the public to the hotel's coastal access parking spaces at the hotel property. This is an important point to us in that the hotels "On-Site/Ocean Colony Public Access program" as set forth in the approved Coastal Development Permit is more than just the 25 coastal access spaces at the hotel.

Also, based on previous interface with Coastal Commission enforcement staff and the Ritz-Carlton management during 2001 and 2002, Ritz-Carlton has taken steps to enhance the coastal access parking in the parking garage (i.e., additional signage, enhanced staff training, purchase of radios for the valet interface, etc.). Ritz-Carlton also maintains logs of the # of people/vehicles that come to the greeter station and request access to the coastal access parking spaces. From March 2003 through October 2003 our experience with such requests to park in the coastal access parking spaces in the valet garage is as follows:

<u>Month</u>	<u># of Vehicles</u>	<u>Max. Vehicles Per Day</u>	<u># of Days w/ No requests</u>
March 2003	57 vehicles	13	15 days
April 2003	30 vehicles	4	17 days
May 2003	57 vehicles	5	8 days
June 2003	58 vehicles	6	10 days
July 2003	40 vehicles	4	17 days
August 2003	43 vehicles	6	13 days
Sept. 2003	39 vehicles	8	17 days
Oct. 2003	33 vehicles	4	15 days

A review of the vehicle logs maintained by Ritz-Carlton personnel indicates that the days with the most requests for coastal access parking (i.e. Max. Vehicles Per Day) occur on weekends and holidays; most weekdays have no requests for coastal access parking.

In addition to providing the various on-site coastal access parking facilities, The Ritz-Carlton, Half Moon Bay has significantly improved coastal access facilities at the southern end of Half Moon Bay by providing new bike lanes along Miramontes Point Road, extension of the coastal trail through the Ritz-Carlton property, stairs to Canada Verde beach, a new public viewpoint at Miramontes Point Road, public access restrooms, a \$250,000 cash payment to enhance offsite coastal access improvements and a \$350,000 cash payment to provide additional low-cost recreational facilities in the City of Half Moon Bay. From some of our early meetings to review the allegations in the Notice of Cease and Desist Order it became apparent to us that the Coastal Commission staff was not aware that we participated financially in some of the coastal access improvements that were built as part of the South Wavecrest Golf Course project. This is due to the fact that the Coastal Development Permit approval for the golf course came after the 1991 CDP approval for the Half Moon Bay Resort project. Some of the conditions related to the Hotel project (as an example, the parking lot along Miramontes

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Point Road and the stairs to the beach) were also imposed on the golf course project. Since the golf course project was constructed before the hotel project, the golf course constructed the improvements and then received reimbursement from the hotel owner/developer when the hotel project moved forward.

At our meetings and discussions from November 2003 through February 26, 2004, we focused on alternative locations to relocate the 25 parking spaces from the hotel parking structure. As we discussed, there are three alternatives: (i) provide the 25 spaces at the end of Redondo Beach Road, just north of Ocean Colony; (ii) provide the 25 spaces at an alternative location on the Ritz-Carlton property; or (iii) add 3-5 spaces to the existing Canada Verde Beach parking area with the balance of the 25 spaces provided on the Ritz-Carlton property. We have verified with our design consultant that all of these options are viable from a construction standpoint. However, only the second option, providing the additional spaces on the Ritz-Carlton property can be accomplished without approval of other landowners (i.e. the City of Half Moon Bay with respect to the Redondo Beach Road location and Ocean Colony Partners with respect to the Canada Verde Beach access parking location along Miramontes Point Road). For all of the reasons we elaborated on at our meeting last week, our preference is to relocate the parking spaces on the Ritz-Carlton property as shown on the attached exhibit. Furthermore we would like to proceed with this work as soon as possible so these spaces can be available to the public by summer.

In regard to your request for monetary damages related to the alleged Coastal Act violation, we disagree that a violation of the Coastal Act has occurred. We are prepared to meet with staff and focus our energies on moving the 25 coastal access parking stalls in the hotel garage to an alternative location that would not involve interface with the hotel valet parking staff. The relocation of the coastal access parking will involve substantial expense to us. If Coastal staff will not agree to the relocation of the parking spaces, we are prepared to install an alternative valet parking gate with a mechanism that will accept tokens (or similar) which would be distributed by the greeter station attendant to members of the public requesting coastal access parking. This would allow members of the public to access the parking garage and utilize the parking spaces without interface with the valet parking attendants.

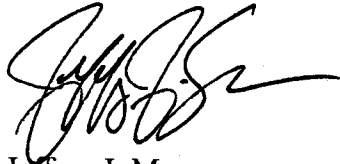
Our Statement of Defense is attached. It is our sincere desire that we can avoid the need for a contested case hearing and instead enter into an agreement with the Coastal Commission to relocate the coastal access parking spaces. As we have reviewed with you previously, the Coastal Development Permit for the property provides for Executive Director approval of the location of the parking spaces on the property. Thus a relocation of the coastal access parking spaces on the property should not require the time and expense of presenting this for consideration at a Coastal Commission hearing.

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I look forward to hearing from you regarding the next step to reach a mutually satisfactory resolution of this matter.

Sincerely,

VESTAR-ATHENS/YCP II HALF MOON BAY, LLC



Jeffrey J. Mongan
Owner's Representative

Encl.

Cc Paul Ratchford – Ritz-Carlton, Half Moon Bay
Nancy Lucast
Michael Burke, esq.
Kim Richards
Jill Johnson

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CALIFORNIA COASTAL COMMISSION

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



SENT BY CERTIFIED MAIL

No. 7002 0460 0003 8376 4457

October 23, 2003

Paul Ratchford
Executive Assistant Manager
The Ritz Carlton, Half Moon Bay
Ritz Carlton Hotel Company, LLC
One Miramontes Point Road
Half Moon Bay, CA 94019

RE: **Notice of Intent to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47;**

Property Address: One Miramontes Point Road, Half Moon Bay, San Mateo County; APNs 066-092-780 and 066-092-770

Dear Mr. Ratchford:

This letter is to notify you of my intent to commence proceedings for the issuance by the California Coastal Commission of a Cease and Desist Order to the Ritz Carlton, Half Moon Bay and Ritz Carlton Hotel Company, LLC (hereinafter "Ritz Carlton") to address continuing non-compliance with the terms and conditions of Coastal Development Permit No. 3-91-71/1-95-47 ("the Permit")¹.

The Permit includes a number of special conditions requiring public access and parking improvements at the Ritz Carlton facilities at One Miramontes Point Road, Half Moon Bay. Special Condition No. 2 of the Permit requires (a) a 25-spot public parking area on hotel premises that is open during daylight hours; (b) a bluff top scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Point; (c) a paved sidewalk or pedestrian access path for public use between the hotel's public parking area and bluff top overlook, connecting to the bikeway leading to Redondo Beach; (d) an off-road bikeway with a parallel unpaved pedestrian path connecting the extended Miramontes Point Road, bluff top overlook area, and southern end of Olive Avenue; (e) bike lanes connecting the

¹ CDP 3-91-71 was renamed and subsequently renumbered as CDP 1-95-47. Exhibit #14
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hotel site to Highway One; (f) 15 parking spaces or pullouts along the new portion of Miramontes Point Road suitable for scenic viewing or beach visits; (g) a pedestrian access path parallel to the drainage swale dividing the 18th fairway of the Ocean Colony golf course, connecting the Miramontes Point parking area to the beach via the adjoining segment of the Coastside Bikeway; (h) signage clearly marking for public use all access routes, public parking, Miramontes Point overlook, and public restrooms; and (i) an enclosed public restroom facility.

3 Special Condition No. 4 of the Permit requires the above-identified access related amenities required in Special Condition No. 2 to be incorporated into revised project plans that are approved by Commission staff. In November of 1998, Jeffrey Mongan of The Athens Group submitted final revised access plans to Commission staff in compliance with this requirement. The Executive Director approved these plans. The approved plans show a total of 25 public parking spaces: twenty-three (23) standard stalls located on the second level of the structured parking; and two (2) handicap public access parking stalls located near the hotel greeting station.

4 For nearly two years, Commission staff has received ongoing complaints from members of the public and from staff who have experienced difficulty utilizing the required coastal access and public parking improvements on the Ritz Carlton property. Such failure to provide public access in conformance with the approved plans constitutes a violation of the requirements of the Permit, and therefore the Coastal Act. Since we first contacted the Ritz Carlton regarding these complaints in June of 2001, Commission staff has repeatedly received assurances from Ritz-Carlton management that these problems have been rectified; yet we continue to receive complaints, indicating that the Ritz Carlton has failed to adequately comply with the Permit's conditions. Since all other measures have failed, in order to ensure compliance with the conditions of the Permit, I am therefore recommending that the Commission issue a Cease and Desist Order to ensure compliance with the terms and conditions of the Permit.

History of the Violation Investigation

5 Commission staff first notified Richard Johnson, then executive assistant manager, of the violation on the Ritz Carlton property in a letter dated June 26, 2001, from the North Central Coast District Enforcement Officer Jo Ginsberg. Ms. Ginsberg informed Mr. Johnson that Commission staff had received numerous complaints concerning lack of public access and parking at the Ritz Carlton site, indicating that people had complained that: (1) there are no longer any signs designating public parking; (2) there are no handicap spaces as were designated and approved on the project plans; (3) the entrances to all three levels of the parking garage are blocked by a sign saying "valet parking only"; (4) there are only nine garage spaces marked for public use rather than the required 25; and (5) Ritz Carlton staff require visitors to pay as much as \$10 to park, and/or tell them a) that there is no public parking, b) that the public parking area has been moved because the garage spaces aren't working out for the hotel, and/or c) to park in the delivery area or "where the caddies park."

6 In a letter to Ms. Ginsberg dated July 12, 2001, John Berndt, General Manager of the Ritz Carlton, stated that additional training to the guest service employees had been provided, and that he was dedicated to fulfilling the Ritz Carlton's coastal requirements.

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7 Following a meeting with Commission enforcement staff, Mr. Johnson wrote a letter dated August 29, 2001 to Ms. Ginsberg stating that he would do everything in his power to comply with what he referred to as the "Coastal Access Agreement." We assume Mr. Johnson was referring to the approved access plans, required by and approved as part of the Ritz Carlton's coastal development permit.

8 In subsequent correspondence dated February 11, 2002, Commission staff indicated that another complaint had been lodged concerning continuing problems with the public access amenities at the Ritz Carlton, with the unfamiliarity of Ritz Carlton staff with the public access amenities and the proper procedures for allowing visitors to use these amenities. Commission staff noted that the signs at the parking structure that say "Valet Parking Only" discourage visitors from using the public access amenities at the Ritz Carlton, and that Ritz Carlton staff continues to fail to direct visitors to the 25 designated public access parking spaces in the parking structure and on the Ritz Carlton property that the Permit requires.

9 A letter from Jeffrey Mongan, Senior Vice President, dated March 25, 2002 assured Commission staff that "the Ritz Carlton management team is doing an admirable job of accommodating the visiting public and maintaining compliance with the requirements for coastal access parking."

10 During a visit to the Ritz Carlton on April 9, 2002, Commission staff experienced problems accessing the public parking spaces on the Ritz Carlton property. The greeting station was unmanned, there was no sign at the greeting station directing members of the public to the on-site Ritz Carlton public access parking, there was a misleading "Coastal Access Parking" sign that pointed to nowhere, and the parking structure was locked, with gates down, and impassable. Since there was no staff present to ask about parking, they drove to the front of the hotel and asked an attendant where the public parking was for visitors who wanted to use the access trail. The attendant tried to direct them off the hotel grounds to the 15-space County-run parking area along Miramontes Póint Road. When Commission staff persisted in their request for on-site parking, the attendant told them he had worked at the Ritz Carlton since it had opened, he was unaware of any on-site parking for public visitors, and he continued to direct them off the site. When Commission staff pointed out that they knew there was public parking in the parking structure, the attendant told them this was not so. These experiences were detailed in Ms. Ginsberg's letter to Mr. Mongan dated April 17, 2002.

11 In her April 17, 2002 letter, Ms. Ginsberg also indicated that she had received similar complaints from members of the public who telephoned to say that there is no hotel staff at the greeting station, that the signs are uninformative, and that there is no access to the parking structure. The letter further stated that it seemed clear that the Ritz Carlton's system of providing the public with coastal access parking is not working and is unacceptable. Commission staff requested that a sign be posted at the greeting station stating something to the effect of "Public Coastal Access Parking in the Garage, See Valet for Entry." Commission staff also suggested that a similar sign be posted on the garage itself.

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12 In a letter dated May 1, 2002, Jeffrey Mongan stated that to avoid future complaints, the Ritz Carlton management team was, "effective immediately", implementing several changes to the current parking system, including: (1) staffing the greeter station from sun up to sun down on Friday, Saturday, and Sunday as well as holidays or days where the hotel occupancy was projected to be over 50%; (2) placing two additional signs to direct visitors to the coastal access parking facility, one at the greeter station and one at the entrance to the parking structure; (3) recording and reviewing all requests for coastal access parking including license plate numbers; and (4) providing additional education and training to all hotel employees on the proper responses to coastal access parking requests.

13 In a follow-up letter dated May 15, 2002, Mr. Johnson indicated that all the proposed changes had been successfully implemented and that the management team was "committed to enhancing the Coastal Access experience at the Ritz Carlton, Half Moon Bay."

14 In a letter to Mr. Johnson dated May 20, 2002, Commission staff requested that the wording on the proposed new signs be "Public Coastal Access Parking Available in the Garage, See Valet for Entry." The letter also urged Mr. Johnson to monitor the situation to ensure that all terms of the Permit are complied with, that the required public parking is clearly signed and available, and that the public does not encounter further problems. The letter further stated that failure to comply with the terms and conditions of the Permit would result in further enforcement action, including the issuance of a cease and desist order and possible imposition of monetary penalties.

15 In a subsequent letter to Mr. Johnson dated August 7, 2002, Commission staff reiterated the measures that the Ritz Carlton had agreed would take place to ensure compliance with the Permit:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.
2. Change the existing policy of having the Greeters ask visitors who wish to use the public access facilities at the Ritz Carlton for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.
3. Ensure that hotel staff greeting prospective visitors to the Ritz Carlton at the Greeter's Station provide complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the Ritz Carlton garage, and will not direct people to the 15-space, County parking lot located off-site near the trailhead.

4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it and there is no valet present.
5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz Carlton and not occupied by other cars.

16 In a letter dated August 29, 2002, Mr. Johnson addressed all the proposed changes, and indicated that everything in Ms. Ginsberg's letter dated August 7, 2002, had been implemented effective immediately.

17 Despite all the attempts by Commission staff to identify and address these issues, and the numerous assurances we have been given that the Ritz Carlton staff is dedicated to providing access to the public and to complying with the Permit, we have continued to receive complaints about the inability by visitors to utilize the public access and parking amenities required by the Permit.

18 For example, in March, 2003, we had a complaint by a member of the public, who stated that he had visited the Ritz Carlton and asked the greeter at the entry gate how he would go about using the coastal trail to look at the beach. The greeter told him that he should turn around and drive back to the public parking lot on Miramontes Drive. The visitor told the greeter that he thought he could park at the Ritz Carlton and just walk along the bluff and look at the view. He was then told that he could look at the view but could not go into the hotel or get to the beach, and that he must return his "Coastal Trail Parking Pass" when he left (repeated twice). He reports that she motioned him on, without explaining where he was to go. He drove to the parking garage, but the gates were down and locked, preventing entry. He drove around looking for a way into the parking garage, and finally pulled up to the front door of the hotel, explaining to the valet that he wanted to park and walk on the coastal trail. The valet checked with someone else, who told the first valet to just park the visitor's vehicle and "comp" him. After his visit, when he wanted to leave, he had to wait about ten minutes to get his car back, because the valets were very busy. There was no greeter at the station when he left so he was unable to return the pass as instructed.

19 Around the same time, another visitor reported that there was no greeter at the booth, and that when she drove up to the entrance and spoke to a valet, she was directed to park on the roof of the parking structure, and it was unclear how to get to the public access trail from the roof.

20 On August 3, 2003, a Commission staff member was instructed by the greeter to use the off-site County parking lot when she told him she wanted to access the coastal trail. The greeter made no mention of the on-site parking facilities. The off-site lot was full and no parking was available.

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21 On August 22, 2003, we received another complaint from a visitor who was sent back to the off-site County parking lot when he asked the greeter where to park in order to access the beach trail. The visitor then called a staff member at the Commission and was told to try again to access on-site parking. The visitor once again approached the greeter's station and was again told to go to the off-site County parking lot. After some questioning, the greeter said that he could issue a pass to the visitor. The visitor was instructed to take the pass to the valet and he would then be let into the garage. After a bit of confusion, trying to find the valet, then the garage, the visitor finally found the on-site parking.

22 On September 5, 2003, a visitor was given a parking pass, and was told to look for a valet to gain access to the garage. The visitor drove around searching for the valet for three minutes. The visitor did not find a valet, so she drove to the back of the garage. There was no valet. After some time, the visitor talked to a Ritz Carlton employee. When the employee was told that the visitor wished to park and walk on the trail, the visitor was told that the lot was full because the hotel was overbooked. The employee offered to park the car, but the visitor did not want to leave her keys. The employee said the visitor could park at the Tennis and Swim Club, so she drove to the club lot. There were many open spaces, but they were all marked for Club members only. The visitor then left the premises.

23 On September 22, 2003, the Commission received another complaint. On Labor Day weekend a visitor approached the greeter's station and asked to use the public parking facilities. She was told to use the County public lot on Miramontes Drive. When pressed, the greeter phoned the valet. The valet said there was a space available in the garage, and the visitor was issued a parking pass. The valet met the visitor at the garage entrance, escorted her inside the garage, and directed her into a parking space. None of the other cars in the public spaces had access passes affixed to their rear view mirrors, but all the public spaces were full. There was a valet in the garage moving a car out of a public space, presumably keeping at least one space available for public use. It appeared that the parking spaces reserved for public use were being used for valet parking for hotel guests.

24 In summary, there is a continuing failure by the Ritz Carlton to implement the public access provisions of the Permit, despite numerous attempts by Coastal Commission enforcement staff to informally resolve the situation, and numerous public efforts to gain entry to the required public access parking. Such violations of the conditions of a permit are violations of the Coastal Act, and because our efforts to informally resolve this situation have been unsuccessful, we now find it necessary to commence formal enforcement proceedings against the Ritz Carlton for violating CDP No. 3-91-71/1-95-47.

New unpermitted activity

25 Commission staff has received additional complaints of activity conducted by the Ritz Carlton in violation of the Permit. We are in receipt of a letter dated October 21, 2003 to the Ritz Carlton from Jack Liebster, Planning Director for the City of Half Moon Bay (copy enclosed). In that letter, Mr. Liebster indicates that the Ritz Carlton has been parking cars on its lawns, has been utilizing helicopters to transport guests to and from the Ritz Carlton, and has

been erecting a large tent for hotel use. As you should already be aware, all "development" activity, as that term is broadly defined in Section 30106 of the Coastal Act, requires a coastal development permit. Any such development activity without necessary permits is also a violation of the Coastal Act. We understand from the City of Half Moon Bay that the helicopter use was temporary and you have committed to them that such activity will not reoccur. If this is the case, please confirm this to the Commission along with your completed Statement of Defense form. With respect to the parking of cars on the lawns and the erection of a tent, the Permit does not appear to authorize these activities. Please provide assurance that these activities have ceased, if they have, so that we can avoid further enforcement action if possible.

Steps in the Cease and Desist Order Process

Pursuant to Coastal Act Section 30810, the Commission has the authority to issue an Order directing any person to cease and desist if the Commission, after a public hearing, determines that such person has engaged in "any activity that is inconsistent with any permit previously issued by the Commission, or that is not authorized in a coastal development permit." Additionally, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act.

An order issued pursuant to Section 30810 will require that the Ritz Carlton take immediate steps to ensure compliance with the terms and conditions of the Permit concerning public access and public parking and cease and desist from any non-compliance with your permit and the associated conditions.

Please be advised that if the Commission issues a Cease and Desist Order, Section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order for each day in which the violation persists. The penalty for intentionally or negligently violating a cease and desist order can be as much as \$6,000 per day for as long as the violation persists. I also note that Sections 30820 and 30823 of the Coastal Act provide for monetary penalties for violations of permits issued by the Commission.

At this time, the Commission is tentatively planning to hold a hearing on the issuance of a Cease and Desist Order in this matter at the Commission meeting that is scheduled for the week of December 9, 2003 in San Francisco, California.

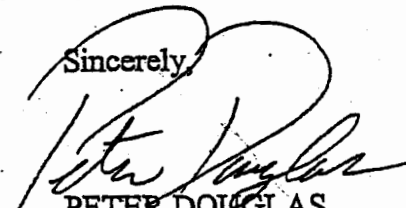
The Commission may issue a *unilateral* Cease and Desist Order that requires actions to remedy the Permit violations at the Ritz Carlton. In addition, the Commission may also seek to impose monetary penalties for the Permit violations that have occurred. If the Commission issues a unilateral Cease and Desist Order to obtain compliance with the Permit, this matter may also be referred to the Attorney General's Office for filing of litigation against the Ritz Carlton to seek civil penalties for past violations. Alternatively, the Commission staff is willing to discuss a negotiated Cease and Desist Order that the Commission would issue with the agreement and consent of the Ritz Carlton. A "consent" Cease and Desist Order is similar to a settlement agreement and would require the Ritz Carlton to agree to its issuance by the Commission prior to

the public hearing. A Consent Order would provide you with an opportunity to have input into the process and timing of the implementation of the remediation plan and would allow you to negotiate a monetary settlement amount with Commission staff.

In accordance with the California Code of Regulations, Title 14, Section 13181(a), you have the opportunity to respond to the staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. **This office must receive the completed Statement of Defense form no later than November 12, 2003.** If you have questions concerning the filing of the Statement of Defense form, please contact Nancy Cave at (415) 904-5290. The filing of the Statement of Defense form is unnecessary if we have agreed on the terms of a Consent Order to resolve this matter. If such agreement were reached, you would be required to stipulate to the facts of the case. You would also need to sign a Waiver of Defenses form indicating your intent to pursue resolution via a Consent Order. Regardless of which option you choose, Commission staff intends to schedule a public hearing on the cease and desist order at the Commission meeting scheduled for December 2003 in San Francisco.

If you have any questions regarding this letter or would like to discuss a Consent Cease and Desist Order, please contact Nancy Cave at 415-904-5290.

Sincerely,



PETER DOUGLAS
Executive Director

Encl.: City of Half Moon Bay letter dated October 21, 2003
Statement of Defense form

cc (w/out enc.): Lisa Haage, Chief of Enforcement
Linda Locklin, Coastal Access Program Manager
Chris Kern, North Central District Supervisor
Nancy Cave, Northern California Enforcement Supervisor
Jo Ginsberg, North Central Coast District Enforcement Officer
Jack Liebster, Planning Director, City of Half Moon Bay
Jeff Mongan, The Athens Group

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Notice of Intent (NOI) to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz-Carlton): Non-Compliance with the terms and conditions of CDP No. 3-91-71/1-95-47

Property Address: One Miramontes Point Road, Half Moon Bay, San Mateo County; APNs 066-092-780 and 066-092-770

Statement of Defense

I. General Background

The following Statement is in response to allegations contained in the October 23, 2003 letter from Peter Douglas, Executive Director of the California Coastal Commission, to Paul Ratchford, General Manager of the Ritz-Carlton, Half Moon Bay ("NOI"). A copy of the NOI letter is attached with the paragraphs numbered for ease of reference. A copy of the Coastal Development Permit ("CDP") for the Property is also attached for reference.

From the opening of the Ritz-Carlton hotel in March 2001, the coastal access program implemented by the developer/owner has been extremely well received by members of the public as evidenced by the frequent users of the Coastal Trail, the Canada Verde Beach Parking Lot (15-space parking lot along Miramontes Point Road), the Miramontes Point Overlook, the stairs to Canada Verde Beach, new public restrooms, bike lanes along Miramontes Point Road and the bikeway through the Ritz-Carlton Property. These improvements were all constructed pursuant to Special Condition #2 of the CDP. Thousands of visitors have used these coastal access improvements since the opening of the hotel without patronizing the hotel, its restaurants or other services at all. Over 250,000 visitors have stayed at the Ritz-Carlton, Half Moon Bay since the opening despite a regional economic recession, the September 11, 2001 terrorist attacks, the SARS outbreak, and other external events that have had a severe negative impact on the national and international tourism industry.

In addition, the hotel developer/owner paid \$600,000 to the Coastal Commission for Offsite Public Access improvements (\$250,000) and Low Cost Recreation Facilities near Half Moon Bay (\$350,000). CDP Special Condition #3, Part II, and Special Condition #5.

One area of the coastal access program that has not functioned as well as originally contemplated by both the hotel developer/owner and Commission staff is the portion of the on-site coastal access parking program located in the hotel's Valet Parking Garage. By way of background, the hotel has two parking areas as part of its "On-site/Ocean Colony Public Access Program". There is a 15-space parking lot along Miramontes Point Road, located approximately 500 ft. before the hotel greeter station (the "Canada Verde Beach Parking Lot"). A second parking area containing 25 spaces is located on the second level of the hotel Valet Parking Garage. Both parking areas were completed

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before the hotel opened and, of course, both still physically exist today. Accordingly, the owner/developer has not failed to provide any required public access facilities. Rather, based on the allegations in the NOI, the owner/developer appears to have experienced operational problems from time to time in providing convenient and welcoming public access to the existing Valet Parking Garage.

The location of coastal access parking spaces in the Valet Garage was approved by the Executive Director as part of the approval of Final Plans for the project pursuant to Special Condition #4. The location of the 25 spaces in the Valet Parking Garage requires interface with the hotel valet parking operation as the spaces are behind a security gate at the entrance to the garage. Paragraphs 5 – 16 of the NOI set forth the Coastal Commission staff's account of its interaction with the hotel management and the owner's representative between June 2001 and August 2002 as a result of complaints from members of the public, generally related to problems with access to the public parking spaces in the Valet Garage, operation of the hotel greeter station, and the interface with valet parking staff. We concede that some operational problems probably did occur although we have not been supplied with specific information related to who filed the complaints and the details of the complaints. The hotel staff on many occasions has had a different account of what transpired, most of which is documented in the correspondence back and forth during the above mentioned timeframe.

In response to its communications with staff, the hotel made specific changes to the access program such as additional signage, communications equipment to enhance the communication between the hotel greeter station attendant and the valet parking operation, additional employee training, and increased hours of staffing the greeter station. These revisions seemed to be effective as evidenced by the lack of complaints between August 2002 and March 2003. However, the Ritz-Carlton management team went through a management transition between March and June 2003. The hotel general manager and executive assistant manager both left the Property for positions elsewhere. These two leaders were the most familiar with the coastal access parking problems experienced during the first year of the operation. A new general manager started in early June 2003 and a new executive assistant manager followed in July 2003. Based on the allegations set forth in paragraphs 18 – 23 of the NOI, it appears that this management hiatus contributed to new Valet Garage coastal access operational problems.

Mr. Ratchford, the new hotel general manager, attended a meeting with Coastal Commission staff in San Francisco on March 4, 2004 and outlined steps that have been taken since receipt of the NOI to assure the hotel's compliance with the coastal access program. Steps outlined include:

- Renewed employee training programs related to the Coastal Access program.
- Change in the staffing of the hotel greeter station from the hotel's loss prevention (security) department to the more welcoming guest services department.
- Commitment to manning the greeter station during daytime hours seven days per week (as opposed to the previous practice: weekends, holidays and whenever the hotel occupancy exceeded 50%).

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However, even with these operational improvements, coastal access parking in the hotel's Valet Parking Garage remains subject to human error as it requires interface with hotel personnel at both the greeter station and the gated security entrance to the Valet Garage. In order to eliminate the potential for human error in the future, the hotel owner and manager have recommended that the 25 parking spaces in the Valet Garage be relocated to a new area in the middle of the hotel property adjacent to the coastal trail. These spaces would be designated for coastal access parking only and would provide members of the public the opportunity to self-park without an interface with the hotel valet parking staff. Additional directional signage would be installed to provide members of the public an easy to follow route to the self parking location. The location of the new spaces would provide easy access to the coastal trail allowing access to Miramontes Point as well as the northern extension of the trail through Half Moon Bay. However, this alternative location has been rejected by Coastal Commission staff on the basis that it would be possible for other users (i.e. hotel guests, tennis club members, etc.) to park there. To mitigate the potential for this to occur, the hotel management has offered to post additional personnel on busy weekends and holidays and periods of high hotel occupancy to assure that only visitors displaying the coastal access parking pass provided at the hotel greeter station will be allowed to park there. This was not acceptable.

Coastal staff has indicated a preference to identify alternative parking locations near the hotel greeter station. However, we have pointed out that we do not own any land in that area and the land being suggested is currently in use as a golf course and single family homes. The Miramontes Point Road right-of-way owned by the City is not wide enough to provide an opportunity to expand further and add parking.

We have also suggested the possibility of building new coastal access parking at the end of Redondo Beach Road in lieu of providing the parking spaces on site; an option that is permissible under Special Condition #2(a) of the CDP. This was also not acceptable to Coastal staff.

Thus, it appears that the owner/developer has no choice but to keep the existing 25 coastal access parking spaces in the Valet Garage and continue to run the risk that human error may lead to occasional breakdowns in the system. We are following up on a suggestion from Coastal Commission staff to evaluate alternative gate mechanisms that would accept a token or card distributed by the hotel greeter station attendant in order to eliminate the need to interface with the hotel valet parking operation. We expect to implement this change in equipment if the Commission decides that we should keep this segment of the hotel's coastal access parking in the Valet Garage.

In summary, the Ritz-Carlton, Half Moon Bay is committed to providing an exceptional coastal access program. We remain hopeful that an alternative parking location can be identified that will improve the situation and complement the hotel's visitor serving use.

II. Response to Specific Allegations

The following information is in response to information and/or allegations made in the October 23, 2003 Notice of Intent (reference specific paragraph #'s):

5. Interviews with hotel management in June 2001 indicated the hotel had provided access to the required coastal access parking spaces and that no one had been charged a fee for such access. Nevertheless, there was confusion on the part of some hotel employees in the months following opening of the hotel and it is possible some miscommunication occurred, although we have seen no evidence of the specific incidents alleged in the NOI. Subsequent action by the hotel as chronicled by Coastal Commission staff improved the situation but, based on the allegations in the NOI, it appears breakdowns may have continued to occur
8. As a result of this complaint an internal investigation was conducted by Ritz-Carlton. An audit of the hotel managers involved found that the management team and staff associated with the greeter station and valet parking were aware of the coastal access parking protocol. Nevertheless, the hotel reinforced its employee training programs related to the coastal access parking and ordered additional signage to improve the directional signage to the coastal access parking area in the Valet Garage.
10. Subsequent to the September 11, 2001 terrorist attacks, the hotel's business level dropped off dramatically necessitating some staff cutbacks. The decision was made to cut back on the hours of operation of the hotel greeter station due to the low levels of business. The greeter station was not staffed on weekdays and the Coastal Commission staff visited on a Tuesday. The failure to man the greeter station led to interface problems with members of the public trying to find valet staff to open the Valet Garage security gate so that they could access the public coastal parking. The hotel subsequently: added signage directing the public to see the hotel's valet staff for entry in the event the greeter station was closed; increased the days and hours of operation of the greeter station; began to keep a log of visitors utilizing the coastal access parking; and provided additional employee training programs to further educate hotel employees about the coastal access parking facilities. There is also reference to Coastal staff being directed "off hotel grounds to the 15-space County-run parking area along Miramontes Point Road". This parking area is not run by the County but in fact is part of the hotel's On-site/Ocean Colony Public Access Program.
11. See the response for #10 above.
14. The hotel management did follow-up and implement the Coastal Commission staff request to change the wording on the signage.

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15. The hotel did follow-up and implement this directive. As noted in #10 above, the reference in item #3 under this paragraph to the "County parking lot" is inaccurate.
18. As mentioned above, the hotel went through a management transition beginning in March 2003. Based on the allegations in the NOI, this may have contributed to a breakdown in coastal access parking operations in the Valet Garage. It is difficult to determine what was said by the greeter station attendant to the member of the public. In follow-up interviews, hotel management indicated that it is common for visitors to ask "where can I park to get to the beach"? In this case, the greeter station attendant made the visitor aware of the Canada Verde Beach Parking Lot back along Miramontes Point Road. The rest of the alleged interaction with the greeter station attendant is an example of the confusion that can arise as a consequence of the interface with the Valet Garage and valet staff. We have suggested relocating the Valet Garage coastal access parking to eliminate the valet interface. This is not offered as an excuse for any failure by the hotel to meet its coastal access parking responsibility but, rather, to explain there is a better way to set this up to mitigate the potential for future breakdowns.
19. See explanation above relative to problems with the part time operation of the greeter station. In this case the visitor was accommodated but in the wrong location.
20. See Paragraph 10 regarding the "off-site County parking lot" which is part of the hotel's approved public access program. The greeter station attendant should have informed the Commission staff member of the coastal access spaces in the garage in accordance with the public coastal access policies of the hotel.
21. The paragraph alleges that the visitor "asked the greeter where to park in order to access the beach trail." The Canada Verde Beach Parking Lot on Miramontes Point Road, a part of the hotel's On-site/Ocean Colony Public Access Program, not an "off-site County parking lot," is the closest spot to access the trail to the beach. Although the system did not function perfectly on the second go-round, the member of the public did ultimately park at the hotel's Valet Garage as desired.
22. This instance is an example of the problems experienced with the interface between a coastal visitor and the Valet Garage and the hotel valet staff, particularly the difficulty that some members of the public have finding the hotel valet area. The hotel employee did offer to park the vehicle and accommodate the visitor, however the visitor chose to leave due to the confusion of the parking arrangement

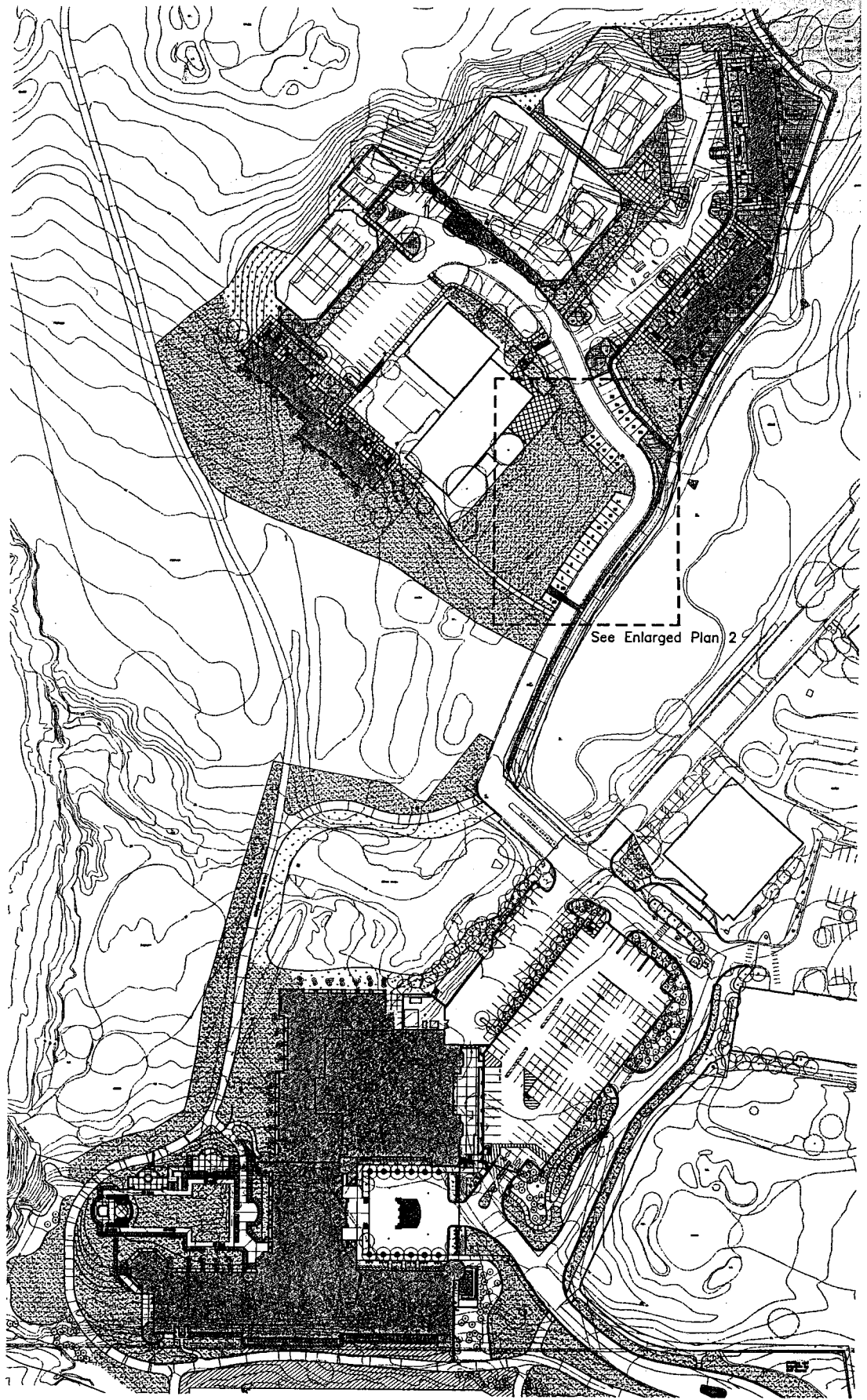
23. In this case, the visitor was accommodated and from the information presented it is impossible to determine if the other cars in coastal access parking spaces belonged to members of the public or not. See Paragraph 10 regarding the erroneous reference to the "County public lot".

24. The lawn area adjacent to the Colony Club was used for overflow parking during some hotel events in September 2003 that coincided with very busy golf course parking demand. This does not constitute development activity. The lawn area that was used for parking is shown as a paved parking lot on the plans approved by the Coastal Commission when the project received its CDP approval. Since the hotel was down-sized from 350 rooms to 261 rooms subsequent to the CDP approval, this area of asphalt parking was not constructed. Instead a lawn was put in, but the overflow condition necessitated using the lawn for parking during this period. The hotel did also allow one group to use helicopter transportation from the airport to the property during the pumpkin harvest season when traffic on Hwy. 92 into Half Moon Bay was very congested. The hotel has since informed the City of Half Moon Bay that it will no longer condone helicopter landings on the hotel property. Lastly the hotel did erect a tent for use of a group on a temporary basis. The tent was subsequently taken down. The hotel is currently in discussions with the City of Half Moon Bay about the permit requirements for use of the tent in the future.

We have attempted to respond to the allegations with the limited information available to us. We could do a more thorough investigation if the Coastal Commission staff would provide us with the records of the complaints so we could conduct follow-up interviews with the individuals involved.

In closing, we feel the steps implemented by Ritz-Carlton management since receipt of the NOI in October have substantially rectified the situation and we are encouraged that the Coastal Commission staff's recent spot checks came back with favorable reviews. We are confident that our public access operations will run even smoother once we relocate the 25 spaces in the Valet Garage to an alternative site in the middle of the hotel property adjacent to the Coastal trail, as we would prefer, or install a token or ticket machine at the Valet Garage entrance that would permit coastal visitors to access the existing 25 public spaces in the Valet Garage without interfacing with valet staff. We reserve the right to revise this statement or supplement it with additional evidence and argument.

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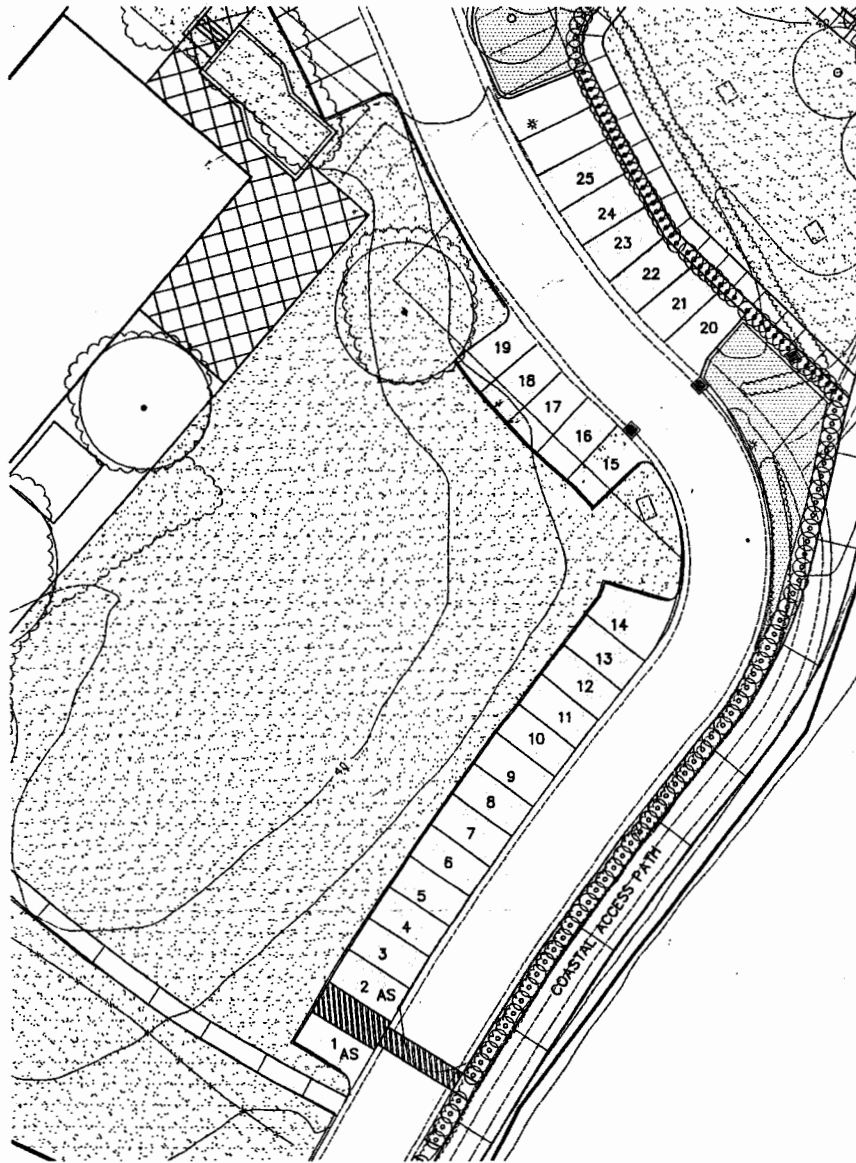
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Overall Site Plan

Scale 1"=100'

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2 Coastal Access Parking
 Scale 1"=30'

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	<p>Project</p>  <p>THE RITZ-CARLTON HALF MOON BAY RESORT HALF MOON BAY, CALIFORNIA</p>	<p>Coastal Access Parking Study</p>	
<p>Ciardella ASSOCIATES Landscape Architects Urban Designers 650 326 6100 957 Rose Avenue Menlo Park, CA 94026</p>		<p>DATE: <u>11/3/03</u> SCALE: _____ △ _____ △ _____ △ _____</p>	<p>SHEET 1 1 SH</p>