

Exhibit A: Map of Project Area, Miramar/Naples Neighborhood

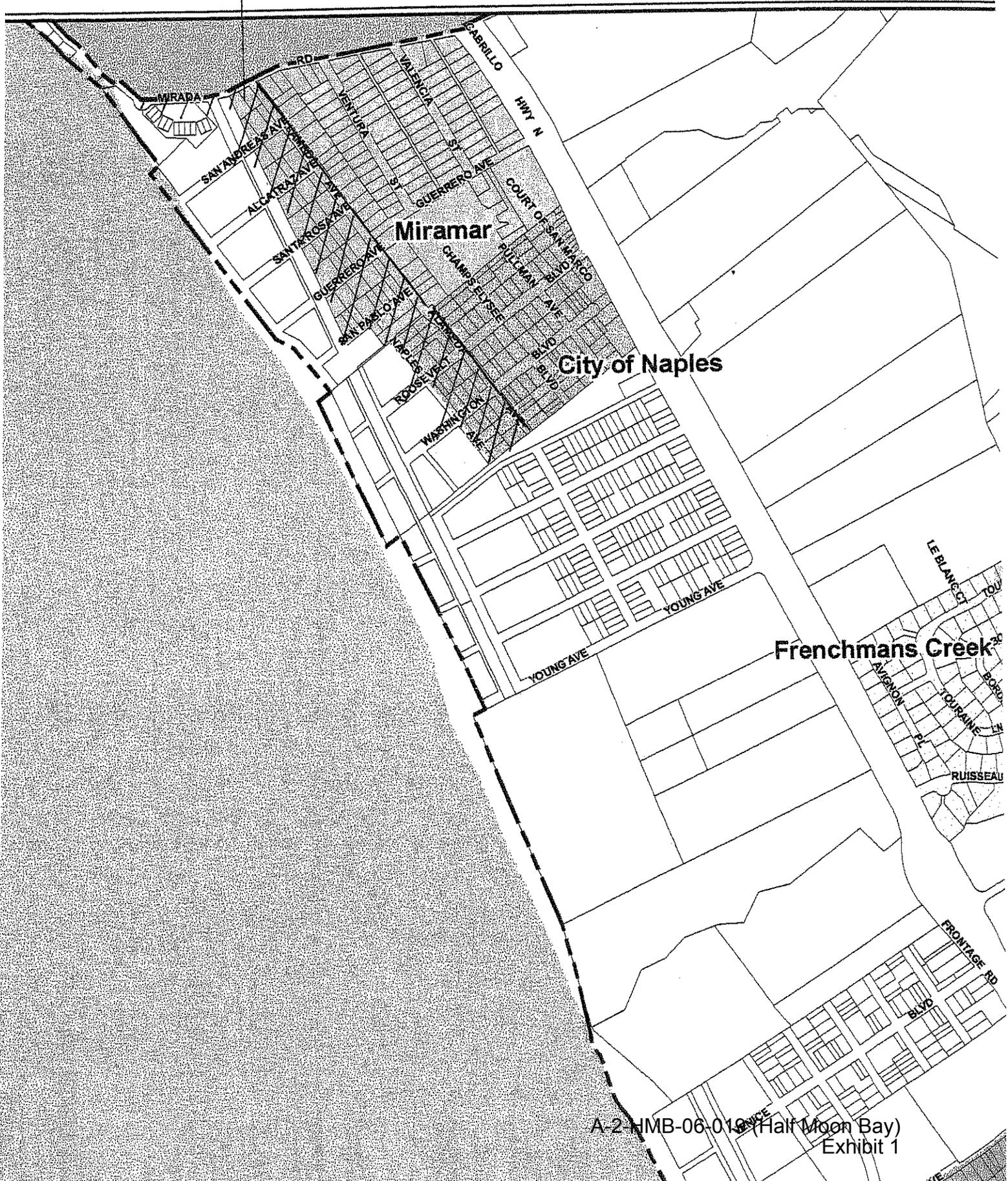


Exhibit B: Map of Project Area, Alsace Lorraine Neighborhood



## NOTICE OF FINAL LOCAL ACTION Coastal Development Permit

City of Half Moon Bay Planning Department  
501 Main Street, Half Moon Bay, CA 94019  
(650) 726-8250 FAX (650) 726-8261

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Date: October 18, 2006 File: PDP-02-04

Applicant: City of Half Moon Bay  
501 Main Street  
Half Moon Bay, CA 94019

**RE: Notice of Final Action – Approval of PDP 02-04 with Conditions**

On August 24, 2006, the City of Half Moon Bay Planning Commission approved with conditions Coastal Development Permit PDP-02-04 establishing a Nighttime Permit Parking Program on designated streets within the City of Half Moon Bay. The approval was deemed final on September 28, 2006 when all required findings were adopted.

Under Resolution P-34-06, the Planning Commission found that based upon the Findings and subject to the Conditions of Approval, the project is consistent with the City's certified LCP, and, in that the project lies between the sea and the first public road, conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. (Resolution P-34-06, with Findings and Evidence, Exhibits A and Conditions of Approval, Exhibit B, are attached.)

This notice is being distributed to the Coastal Commission and to those who requested notice. The project is located within the appealable area of the Coastal Zone.

**Project Description:** Coastal Development Permit establishes a Nighttime Permit Parking Program between 12 a.m. (midnight) and 4 a.m. daily on designated blocks of the Miramar/Naples and Alsace Lorraine neighborhoods. Any vehicle parked on-street during these hours must display a parking permit issued by the City of Half Moon Bay. Residents of the Permit Parking area (and their guests), other residents of the City, and Visitors may purchase an annual parking permit with proof of vehicle registration and residency. The project includes all facilities required for the program, including street signs and poles installed in the public right of way, and the amendment of the City's Master Traffic Resolution to authorize the implementation.

**Project Location:** The project area includes Alameda Ave., and all blocks west of Alameda Ave. (including Mirada Rd., and San Andreas, Alcatraz, Santa Rosa, Guerrero, San Pablo, Naples, Washington, and Roosevelt Avenues) in the Miramar/Naples neighborhood, and all blocks west of Alsace Lorraine and north of Correas Ave. (including Kelly Ave., Balboa Blvd., Miramontes Ave., Correas Ave., Alsace Lorraine Ave., Ocean and Potter Avenues) in the Alsace Lorraine neighborhood.

Local Review of this Coastal Development Permit Application is now complete. The City's approval of this Coastal Development Permit application may be appealed to the California Coastal Commission in accordance with California Public Resources Code Section 30603. A 10 working-day appeal period for this action will commence following the Commission's receipt of this notice of final local action.

**BUSINESS OF THE PLANNING COMMISSION  
OF THE CITY OF HALF MOON BAY**

**AGENDA REPORT**

For the meeting of: August 24, 2006

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**TO:** Planning Commission

**FROM:** Wendy Brewer Lama, Planning Consultant  
Steve Flint, Interim Planning Director

**TITLE:** **PDP-02-04 - Coastal Development Permit for a Nighttime Permit Parking Program in the western blocks of Miramar/Naples and Alsace Lorraine Neighborhoods**

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**I. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission:

- a. Review responses to Planning Commission comments of July 13, 2006
- b. Hold a public hearing on the proposed project
- d. Approve PDP 02-04 for the Nighttime Permit Parking Program as per Resolution \_\_-06, with standard conditions, and adopt the attached Findings

**II. PROJECT DESCRIPTION**

The proposed project is a Nighttime Permit Parking Program in the western blocks of the Miramar and Alsace Lorraine neighborhoods, as described below, and in Attachment 2, Exhibits A and B. (Note: The project has not changed since the July 13 public hearing and discussion).

- **Project Area:** The project area includes:
  - In the Miramar/Naples neighborhood: Both sides of Alameda Ave., and all blocks west of Alameda Ave. including Mirada Rd., and San Andreas, Alcatraz, Santa Rosa, Guerrero, San Pablo, Naples, Washington, and Roosevelt Avenues;
  - In the Alsace Lorraine neighborhood: All blocks west of Alsace Lorraine Ave. and north of Correas Ave. including both sides of the following streets: Kelly Ave., Miramontes Ave., Correas Ave., Alsace Lorraine Ave., Balboa Ave., Ocean Ave. and Potter Ave.
- **Timing:** The hours of the Nighttime Permit Parking Program are from 10 PM to 4 AM daily.
- **Parking Permit Requirement:** All vehicles parked within the Nighttime Permit Parking area must display a parking permit. Residents of the permit parking area can purchase an annual permit allowing up to three vehicles per household and up to four guest vehicles to park on-street during the restricted nighttime hours. Visitors, and Half Moon Bay residents who reside outside the permit parking area, can also purchase an annual parking permit. (See Attachment 2).
- **Allowance for 5-Year Re-evaluation of Permit Parking Program:** The CDP for the Nighttime Permit Parking Program will be renewed automatically at the end of five years unless there is objection regarding the program's effect on coastal access. Any substantive change to the Nighttime Permit Parking Area will require an amendment to CDP 02-04, with public review, and will be appealable to the Coastal Commission.

### III. BACKGROUND:

The Planning Commission has held two public hearings on the proposed project (June 8 and July 13, 2006), the second of which considered a revised project that addressed Planning Commission and Coastal Commission staff comments received during the first hearing.

On July 13, 2006, the Planning Commission provided additional comments on the revised project. The following staff report responds to those comments. No further revisions to the project are proposed.

If the Nighttime Permit Parking Program is approved by the Planning Commission, a resolution to amend the City's Master Traffic Resolution to implement the program will be presented to the City Council. Implementation of the permit parking program will commence after the appeal period has passed, or the CDP 02-04 is approved on appeal by the Coastal Commission (whichever the case), and after the Master Traffic Resolution has been amended by the City Council.

### IV. RESPONSE TO PLANNING COMMISSION COMMENTS OF JULY 13

The Planning Commission provided the following (underlined) comments on the proposed revised project. Staff responses are presented below in *italics*.

#### A. Opening additional beach parking lot(s) at night:

The Planning Commission requested further study of the possibility of opening Poplar Beach parking lot, and/or a State Parks beach parking lot.

##### 1. Re: Opening Poplar Beach parking lot at night:

*The CDP (35-99) for the Reconfiguration/Improvement of the Existing Public Coastal Access Parking Lot Facility at Poplar Beach Park establishes no specific hours of operation. Under Municipal Code 10.50.020 and Ordinance 16-84, both of which allow for the closure of areas to motor vehicles from sunset to sunrise, the Police Department and the City regulates the parking lot's opening hours.*

*At a April 18, 2006 discussion of an earlier Resident and Visitor Permit Parking Program, the City Council rejected the opening of Poplar Beach parking lot at night beyond its current hours of operation. The Police Department has also advised against opening Poplar Beach parking lot at night, due to safety concerns, historic nighttime disturbances at Poplar Beach and the difficulty of patrolling the area within current enforcement capabilities (Attachment 4, pg 10).*

*A public comment received on the Draft Initial Study and Negative Declaration for PDP 02-04 (Attachment 5) suggested "revising the hours of public parking at Poplar Beach to close at 12 midnight... to help achieve a balanced distribution of parking within the area..." The comment also suggests that the closure of Poplar Beach parking lot at dusk is a violation of the City's certified LCP (point #1, d, page 1). Staff notes that PDP 35-99 was approved by the Planning Commission by Resolution on August 12, 1999, setting no specific opening or closing hours. The specific hours of operation are enforced by Municipal Code and Ordinance, and the establishment of such hours do not require a CDP. Please see Section V below for further discussion.*

##### 2. Re: Opening State Parks beach parking lot(s) at night:

*Staff requested input from the Park Superintendent of San Mateo Coast Sector regarding the process and requirements for opening a State Parks beach parking lot at night, either periodically (e.g., on major summer holidays), seasonally or year-round. Staff also requested information regarding the possibility and process of the City of Half Moon Bay assuming responsibility for managing a State Parks beach parking lot at night. A response from the Park Superintendent was*

not received in time to include in the staff report.

Conclusion:

*If the Planning Commission /City wishes to pursue the opening Poplar Beach parking lot and/or a State Parks beach parking lot at night, such action need not nor should not be linked to the proposed project. The proposed permit parking program provides for public access to the beach and coastal trail at nighttime by providing for visitor and resident parking permits at a minimal cost. As such, the project has a less than significant impact on public access to the coast, and does not require mitigation (e.g., opening a public beach parking lot at night) to reduce the impact on visitor coastal access, as suggested in the public comment on the Draft Initial Study and Negative Declaration for PDP 02-04 (Attachment 5).*

*If the Planning Commission/City wishes to pursue the opening of a City or State managed beach parking lot, it may do so as a separate matter, and at that time could seek to amend CDP 02-04 if necessary to reflect such action.*

B. Proactive Enforcement:

The Planning Commission requested additional information regarding proactive police enforcement within this permit parking program, as a supplemental (not alternative) means of addressing nighttime disturbances related to public nighttime parking on residential streets. The Commission also asked that anti-counterfeit measures be instituted to assure that parking permits are secure and cannot be replicated illegally.

1. Re: Police Enforcement Practices and Options:

*Current police practices and options regarding the enforcement of parking and code violations, addressed as Alternative 2 in Attachment 4 (Agenda Report, July 13, 2006, pages 9-10) also describe the options currently available within the proposed permit parking program. Staff has invited a representative of the Police Department to the Planning Commission meeting to further answer any questions regarding patrols and enforcement.*

2. Re: Initiating anti-counterfeit measures:

*The City will employ standard best practices to assure a secure parking permit issuance and verification system, including the sequential numbering and tamper-proofing of permits. Under the City's previous permit parking program, the Police Department produced peel-off, adhesive-backed, numbered printed permits for residents that were not reproducible. Temporary parking permits were issued with the Police Chief's signature and stamp. No incidents of counterfeiting are known to have occurred.*

C. Informative Signage:

The Planning Commission requested additional information on how the City intends to notify visitors of the availability of annual parking permits. The Commission also requested that any neighborhood watch program that is established provide notice that neighbors will be specifically watching for nighttime disturbances.

1. Re: Notification of parking permit availability:

*The City will notice the availability of resident and visitor parking permits on its website. In addition, signs posted in the affected nighttime permit parking areas will state "Permit Parking Only 10pm to 4am Everyday," signifying that a parking permit is required, not that parking is prohibited. The relevant City code number will be noted on all permit parking signs, as a clear reference to the City of Half Moon Bay as the responsible agent. Persons who wish to inquire about getting a parking permit will thus be directed to City Hall.*

2. Re: Notification of neighborhood watch and police patrol of nighttime disturbances

The City will invite neighbors to organize themselves into a neighborhood watch group and to work with Police Department to initiate a watch system. Neighborhood watch signs will indicate that nighttime surveillance is in effect. The establishment of a neighborhood watch program is not part of this project, however, and is dependent upon neighborhood interest.

D. Status of existing No Parking Anytime signs:

The Planning Commission requested information about the status of existing No Parking Anytime signs erected in the affected neighborhoods, particularly in the Miramar-Naples neighborhood (e.g., on the western portion of Roosevelt Blvd. and at the corner of Alameda and Roosevelt), and that the cumulative impacts of the proposed permit parking program be addressed in light of the existing signage.

1. Re: Status of existing No Parking Anytime signs:

The City's Master Traffic Resolution authorizes the posting of No Parking Anytime signs on specific streets in the affected neighborhoods, including:

- o MTR Amendment 46-84 "amends the Master Parking Resolution 9-83 to permit posting of No Parking and Parking by Permit Only signs on Naples Ave, as well as on Washington and Roosevelt east to Alameda Ave, and also on Kelly Ave and Balboa Ave east to Potter Ave, as shown in Exhibit A hereto;"
- o MTR Amendment C-13-91 designates "both sides of San Pablo Ave west of Alameda Ave be designated a No Parking - Fire Lane zone and that the appropriate signs be installed. This street shall also be posted as 'Not a Through Street' and for 'No Beach Access.'"
- o MTR 9-83 designates the south side of Kelly Ave between Pilarcitos Ave and Alsace Lorraine Ave. as No Parking. 9-83 also designates "Kelly Ave, both sides from its western terminus 1/10 mile east (140' Kelly Ave) (as No Parking) and (to) remove other signs."

A copy of the relevant portions of the City's Master Traffic Resolution is attached (Attachment 6).

Additional "No Parking, Authorized Vehicles Only" signage exists at the ends of Alcatraz and Santa Rosa Avenues, regulating parking on State Parks lands.

Other signage may exist that has not been permitted through the amendment of the City's Master Traffic Resolution. Such cases will be investigated outside of the proposed permit parking program. The proposed project does not validate in any way the existing signs.

The proposed project raises no significant issue as to any cumulative impacts of proposed and existing signage. The proposed project (as revised July 13) encompasses all affected streets including those that contain existing No Parking Anytime signs. The No Parking Anytime status (assuming it is permitted by the City's Master Traffic Resolution) would supercede the proposed permit parking requirement unless and until such No Parking signage is removed or modified, wherein the permit parking status would be retained as consistent with the overall aims of the permit parking program.

The City's Municipal Code (Section 18.20.030 (2a)) exempts the posting of street signage from obtaining a CDP:

18.20.030 Exemptions: The following categories of projects are exempt from the requirement to secure approval of a coastal development permit:

2. Repair and Maintenance. Repair and maintenance activities that do not result in

*an addition to, or enlargement or expansion of, the object of such activities, except as otherwise specified in Subchapter 7, Title 14, Section 13252 of the California Code of Regulations and any amendment thereafter adopted. Such activities include but are not limited to:*

*a. Repair and maintenance necessary for on-going operations of an existing facility which does not expand the footprint, floor area, height, or bulk of an existing facility, and the minor modification of existing structures required by government safety and environmental regulations, where necessary to preserve the existing structures which does not expand the footprint, floor area, height, or bulk of an existing structure.”*

*Please note that this responds to the comment received on the Draft Initial Study and Negative Declaration for PDP 02-04, regarding point #1 b and c on page 1. (Attachment 5).*

E. Findings re: Code 18.40/040, F:

The Planning Commission requested that findings address the issue of historic public use of affected public streets for coastal access, specifically in relation to the City Code 18.40.040 (F) which requires that:

*“2. Findings. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development application ... (3. Siting and Design Requirements) Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use...”*

1. Re: Historic Public Use for Coastal Access

*No determination has been made as to the existence of public historic or prescriptive rights of access on public streets affected by the proposed Nighttime Permit Parking program. None-the-less, the project provisions for the sale of parking permits to visitors and residents and unrestricted use of the streets for pedestrian access at any time of day or night, satisfies the Code requirement so as not to “interfere with or diminish any public right of access which may have been established based on historic public use” (18.40.040, F, 3), and not to interfere with any potential public prescriptive rights that may exist (18.40.040, F, 2).*

F. Parking Permit Program Timing

The Planning Commission expressed support for the beginning and ending times of the nighttime permit parking program, as proposed: 10 pm to 4 am daily.

1. Re: Timing

*No changes have been made to the proposed timing of the permit parking program. As discussed in the July 13 Agenda Report (page 5-6, Attachment 4), the proposed timing coincides closely with the period of highest disturbances (9 pm to midnite), as per the Resident Survey feedback and data recently collected by neighbors (Attachments 7 and 8). Input received from neighbors citing recent disturbances indicates that six out of eight incidents commenced after 10 pm (Attachments 7 and 8).*

*The proposed timing also addresses public concerns regarding a beginning time that allows evening guests to park without a permit, as expressed at public meetings. Additional justification of timing is given in July 13 Agenda Report reflecting police and Coastal Commission staff input.*

*A public comment on the Draft Initial Study and Negative Declaration for PDP 02-04 (Attachment 5) suggests moving the starting time of the restricted parking hours to midnight, “consistent with the Coastal Commission decision in the 2003 City of Carmel Case.” Note that the Planning*

*Commission's comments of July 13 indicate support for a 10 pm commencement, also justified in the July 13 and June 8 Agenda Reports and by recent incident data collected (as per above).*

## **V. SUMMARY OF NEIGHBORHOOD INCIDENT DOCUMENTATION REGARDING THREATS TO PUBLIC SAFETY AND PRIVATE PROPERTY AND PARKING DEMAND**

During the months of July and August, a Neighborhood Incident Documentation Period has been held during which time residents of the proposed permit parking areas have been invited to record the location, type, and frequency of incidents, and parking demand, to provide further documentation of the need for a permit parking program to reduce threats to public safety and private property. Letters of documentation are attached, and summarized below.

Two letters documenting recent nighttime disturbances in the affected blocks of the Alsace Lorraine neighborhood were received. One statement (Attachment 7) reports incidents on three nights in July and August (July 15 and 22 – both Saturday nights – and August 3, Thursday night). Two of the three reported incidents occurred earlier than 10 pm, and one after 10 pm. Two involved attempts to sleep in a vehicle parking on the street. The second statement (Attachment 8) reported five incidents, three of which occurred on weekend nights, and all after 10 pm. Three of the five incidents involved attempts to sleep in vehicles parked on the street, and two involved loud noises late at night. One involved damage to private property.

Additional documentation (Attachments 10 and 11) was received regarding the effectiveness of the previous permit parking program on curbing nighttime disturbances. Both report incidents of disturbances and damage to private property and one reports a clear threat to public safety.

None of the documentation received during the neighborhood incident documentation period reported any impact on parking availability at night.

## **VI. CEQA REVIEW**

A Draft Negative Declaration and Initial Study were filed on the proposed project with the State Clearinghouse on July 17, 2006. The 30 day CEQA public review period ended August 15. Public comments are attached to the staff report and responses to comments are summarized above in Section V, and further below. Please note that formal responses to public comments received on a proposed Negative Declaration and Initial Study are not required under CEQA, but are provided herein as appropriate to the discussion of issues raised by the Planning Commission at the July 13 public hearing or for clarification.

The first premise of the comments received on the Draft Initial Study and Negative Declaration for PDP 02-04 (point 1, page 1, Attachment 5) are that “additional mitigation measures should be added to reduce the impact on visitor coastal access to less than significant” (page 1). As stated in the Draft Initial Study and Negative Declaration for PDP 02-04, and in this and previous Agenda Reports, the impacts of the proposed project are less than significant and no additional mitigation is required. As revised, the project restricts nighttime parking to a relatively small area where disturbances related to nighttime parking are most frequent, while allowing for the sale of parking permits enabling visitors and residents to park in such areas for a nominal annual parking fee. Pedestrian and bicycle access on such streets at night are not affected. Alternative parking is readily available on public streets within a short walking distance from the restricted area, and for specialized users (anglers, surfers, and for special events) in State Parks beach parking lots with a permit.

Comment 1e of Attachment 5 speaks to “shorten(ing) the renewal period for the initial CDP

to 1 year from 5 years, so that any problems that may arise with the program... can be corrected." The City could always consider an amendment to the CDP at any time and need not necessarily wait for five years to review the project.

The second point of the public comments is that the proposed project could have significant environmental effects that spread to neighboring areas, which are not sufficiently mitigated. The option of extending the permit parking program to address disturbances that may arise in nearby blocks is not curtailed in any way by this program, and could always be achieved through an amendment to the CDP. This approach – rather than covering such potential expansion of the permit parking program in the CDP as previously proposed – is preferable in that the project location is now defined to reflect documented threats to public safety and damage to private property on a site-specific (block by block) basis rather than on a neighborhood basis. Whereas the Police Department's current capacities may not allow for expanded patrolling of affected areas at this time, the Police will always respond to all calls for service as needed. Neighborhood Watch groups can also be established for improved surveillance, as discussed above.

Point 3 of the comments are noted. Findings for consistency of the proposed project with the Coastal Act and with the City's certified LCP are made in Attachments 1 (Exhibit A) and 12.

Note that an additional letter of comment from the California Department of Transportation (Attachment 9) was received, but has no bearing on the proposed project in that no permit parking signs will be posted within the CalTrans right of way.

## **IX. CONCLUSION**

The proposed revised project for the establishment and implementation of a Nighttime Permit Parking Program in the western-most blocks of Miramar/Naples and Alsace Lorraine neighborhoods seeks to address the concerns of the City and its residents while protecting the public right to coastal access, consistent with the City's LCP and the Coastal Act.

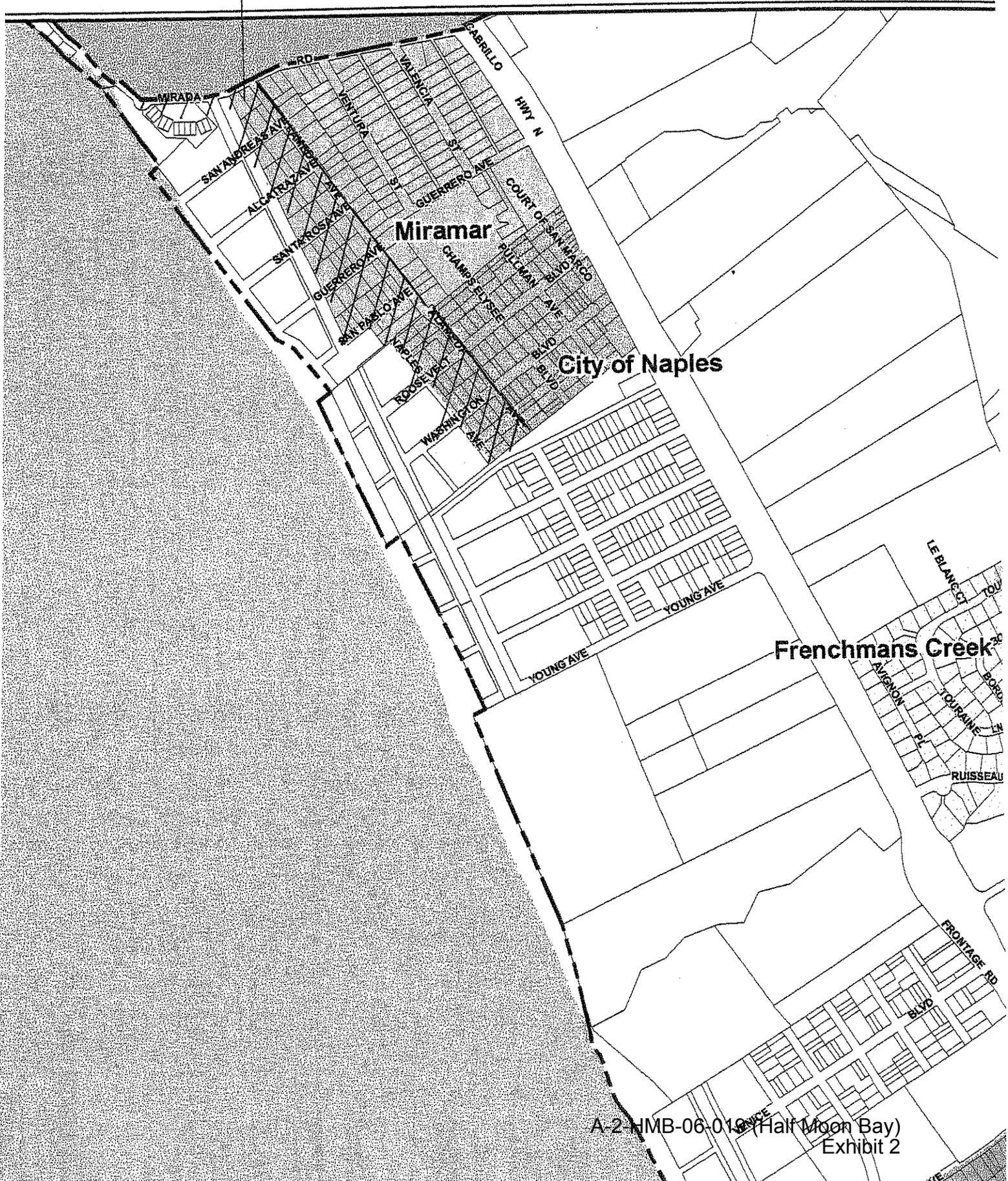
## **ATTACHMENTS:**

- Attachment 1:**           **Planning Commission Draft Resolution P-\_\_-06**  
**Exhibit A: Findings and Evidence**  
**Exhibit B: Conditions of Approval**
- Attachment 2:**           **Revised Project Description: PDP 02-04 Nighttime Permit Parking**  
**Program in the western blocks of Miramar/Naples and Alsace Lorraine**  
**Neighborhoods**  
**Exhibit A: Map of Project Area in the Miramar/Naples neighborhood**  
**Exhibit B: Map of Project Area in the Alsace Lorraine neighborhood**
- Attachment 3:**           **Agenda Report, June 8, 2006, PDP 02-04**
- Attachment 4:**           **Agenda Report, July 13, 2006 PDP 02-04**
- Attachment 5:**           **August 14, 2006 letter from Kevin Lansing, Planning Commissioner.**  
**Subject: Comments on Draft Initial Study and Negative Declaration for**  
**PDP 02-04.**
- Attachment 6:**           **Relevant Amendments to the City of Half Moon Bay Master Traffic**

**Resolution**

- Attachment 7:** Email from Wayne L. Hinthorn, August 9, 2006
- Attachment 8:** Email from Cal Carter, August 16, 2006
- Attachment 9:** Letter of Comment on the Draft Initial Study and Negative Declaration for PDP 02-04 from Department of Transportation, August 15, 2006
- Attachment 10:** Email from Mike Kimsey, July 15, 2006
- Attachment 11:** Email from Cal Carter, July 15, 2006
- Attachment 12:** DRAFT Initial Study and Negative Declaration Half Moon Bay, California, July 14, 2006

Exhibit A: Map of Project Area, Miramar/Naples Neighborhood



Miramar

City of Naples

Frenchmans Creek

Exhibit B: Map of Project Area, Alsace Lorraine Neighborhood



## PLANNING COMMISSION RESOLUTION P-34-06

**Coastal Development Permit to establish a Nighttime Permit Parking Program on specified blocks of the Miramar/Naples and Alsace Lorraine neighborhoods, in the City of Half Moon Bay, including all facilities required for the program and the amendment of the City's Master Traffic Resolution to authorize the implementation.  
PDP-02-04**

**WHEREAS**, an application was submitted on May 1, 2006 by the City of Half Moon Bay City Manager's Office, and revised July 13, 2006, requesting approval of a Coastal Development Permit to authorize the implementation of a Nighttime Permit Parking Program on specified blocks of the Miramar/Naples and Alsace Lorraine neighborhoods, and the installation of signs in the public right of way in such neighborhoods as shown in Exhibits A and B of Attachment 2; and

**WHEREAS**, procedures for processing the application submitted have been followed as required by law; and

**WHEREAS**, Planning staff has conducted two public informational meetings and distributed 1700 mailed surveys to property owners in the potentially affected neighborhoods, and considered input from these exchanges as well as public comment and resident documentation of nighttime disturbances related to public on-street parking; and

**WHEREAS**, the Planning Commission has conducted two duly noticed public hearings on the project on June 8 and July 13, 2006, at which hearings all those desiring to be heard on the matter were given an opportunity to be heard; and

**WHEREAS**, the Planning Commission considered all written and oral testimony presented for their consideration; and

**WHEREAS**, based upon the preparation and public review in compliance with CEQA requirements of an Initial Study and a Negative Declaration of the potential environmental impacts of the project, which are less than significant or none; and

**WHEREAS**, the Planning Commission has made the required findings for approval for a Coastal Development Permit, set forth in Exhibit A of Attachment 1 to this Resolution;

**NOW, THEREFORE, BE IT RESOLVED** that, based upon the Findings in Exhibit A and subject to the Conditions of Approval contained in Exhibit B, the Planning Commission hereby approves the application for Coastal Development Permit (PDP-02-04).

**PASSED AND ADOPTED** by the City of Half Moon Bay Planning Commission at a duly noticed public hearing held on August 24, 2006, by the following vote:

AYES, Commissioners Roman, Jonsson, McCarthy and Vice Chair Snow

NOES, Commissioner Allis and Chair Lansing

RECUSE, Commissioner Poncini

ABSENT,

ATTEST:

APPROVED:

\_\_\_\_\_  
Steve Flint, Interim Planning Director

\_\_\_\_\_  
Kevin Lansing, Chair

**FINDINGS AND EVIDENCE**

**PDP-02-04**

**Coastal Development Permit to establish a Nighttime Permit Parking Program in specified blocks of the Miramar/Naples and Alsace Lorraine neighborhoods, in the City of Half Moon Bay as shown in Exhibits A and B of Attachment 2, including all facilities required for the program, and the amendment of the City's Master Traffic Resolution to authorize the implementation.**

**Coastal Development Permit – Findings for Approval**

The required Coastal Development Permit for this project may be approved or conditionally approved only after the approving authority has made findings of consistency with the certified LCP, as per Municipal Code Section 18.20.070:

**A. Local Coastal Program.** The development as proposed or as modified by conditions, conforms to the Local Coastal Program.

**1) "Development" as a Change in Intensity of Use**

The proposed development constitutes "development" under the City of Half Moon Bay LCP as a "change in the density or intensity of use." PRC§30106, adopted by reference in Policy 9-3 of the City of Half Moon Bay LUP, states:

"All new development permitted shall comply with all other policies of the Plan. (New development means any project for which a Coastal Permit is required under Section 30106, 30250, 30252, 30600, and 30608 of the Coastal Act which has not received such permit as of the date of certification of this Plan)."

As well, Sections 18.20.020 and 18.40.020 of the Zoning Code define "development" as "change in density or intensity of use of land."

As such, the proposed development must be found to be consistent with the certified LCP. The following text, policies and code sections of the City's certified LCP establish the standards of review for a determination of the project's consistency with the LCP, in particular with the LCP access standards.

**2) General Standards of Public Access**

The City's certified LCP protects the public's right to access the shoreline:

"The public's right of access to all beach areas below the ordinary high water mark (mean high tide line) is guaranteed by the California Constitution. The Legislature, in passing the Coastal Act, did not alter these basic public rights but did establish a policy framework for achieving the goal of providing maximum opportunities for public use and enjoyment of the coast." (Section 2.1)

**Chapter 18.40 of the City's Zoning Code provides further guidelines and standards for providing public access to the coast at all times. Section 18.40.010(D) states,**

**"In achieving these purposes, this Ordinance shall be given the most liberal construction possible so that public access to navigable waters shall always**

be provided and protected consistent with the goals, objectives, and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.”

The proposed project, as revised, does not diminish or interfere with public access to the California shoreline. Public streets affected by the nighttime permit parking requirement will remain open for public use, including walking, bicycling, and public and resident parking without a permit from 4 am to 12 am midnight daily, with no encumbrances. A parking permit will only be required for four hours of the nighttime, when public demand to use the shoreline is minimal. During these hours, the public retains the right to park on nearby unrestricted public streets, an additional distance of no more than two city blocks from the shoreline.

The revised project has been designed to further assure and protect the public’s rights to coastal access by offering any person of the public the opportunity to purchase an annual nighttime parking permit for a minimal fee. Such availability of parking permits will be noticed on the City’s website, and indicated on the signs displayed on the permit-program affected streets.

### 3) Balancing Conflicts between Protection of Privacy and Public Access

The City’s LCP recognizes that conflicts sometimes arise between public access in close proximity to residential development.

**“Existing conflicts resulting from residential development adjacent to and fronting on major access routes must be minimized and avoided in the future, both to protect the right of access to the beach and to ensure desirable residential communities.” (pg 25)**

Chapter 18.40.040 of the Zoning Code states that in some cases controls on time, place and manner of uses may be justified by site characteristics including sensitive habitat values and the need to protect the privacy of residential development.

The proposed Nighttime Parking Permit program has been designed to address conflicts that have arisen over a period of years between the public that uses neighborhood streets for nighttime beach parking, and the peace, security and welfare of residences living close to the coastline. Based on documentation collected through resident surveys, public testimony, and written documentation (please see Section 5 California Coastal Act, below for further discussion of documentation), the project has been reduced in scope – by location and timing – to limit its application specifically to those streets most affected by such conflicts, and to hours of the night when disturbances occur and public use is least. As such, the project is consistent with the aims and objectives of the City's certified LCP which allows for control of "time, place and manner of uses" of public access in order to minimize conflicts with residential development.

As discussed in Section 2) above, while seeking to manage such conflicts with controls on time, place and manner of uses, the project also assures no net reduction in public access to the shoreline by providing for full public use of affected streets during the twenty hours of the day and night, for unrestricted pedestrian and bicycle access during restricted hours, and by providing for the sale of nighttime parking permits to the public and residents at a minimal cost.

#### **4) Public Historic Rights of Access**

Section 18.40.040 (F) requires that

"where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development application ... (3. Siting and Design Requirements) Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use..."

No determination has been made as to the existence of public historic or prescriptive rights of access on public streets affected by the proposed Nighttime Permit Parking program. None-the-less, the project provisions for the sale of parking permits to visitors and residents and unrestricted use of the streets for pedestrian access at any time of day or night, satisfies the Code requirement so as not to "interfere with or diminish any public right of access which may have been established based on historic public use" (18.40.040, F, 3), and not to interfere with any potential public prescriptive rights that may exist (18.40.040, F, 2).

#### **5) Parking Facilities**

**Section 18.40.020(E)(5) states that parking facilities provide recreational access to the coast, recognizing that the accessibility of the shoreline is affected by the availability of public parking proximate to the beach and the Coastside Trail.**

**The LUP states that:**

“Deficits in formal parking are made up by informal parking throughout the City, especially on neighborhood streets near the State Beach and on open fields in the southern part of the City.” (pg 27)

The LUP calls for “additional formal, improved parking to enhance access and recreational use and to reduce conflicts with residential areas” to address the need for more beach parking in the City (primarily for day-time visitors). Policy 2-17 supports the provision for additional public beach parking while recognizing the need to buffer nearby residential areas from the impacts of public beach parking and related disturbances. Where public parking occurs within residential area, such separation is not feasible and therefore “controls on time, place and manner of uses... to protect the privacy of residential development” (as per 18.40.040, above) are necessary and permitted in accordance with the City’s LCP.

The circumstances necessitating the project are related to the lack of adequate nighttime beach parking in City and State public beach parking lots. Nighttime beach-users thus park on public streets, and unfortunately create disturbances to nearby residents. Due to limitations on the day-use status of State parking lots, and the City’s own regulations on the hours of use of Poplar beach parking lot, alternative nighttime parking for the general public in public parking lots is not available at this time. Provisions are available for nighttime parking in State parking lots for special users, however, including anglers, surfers, and those requesting “special event” permits. The City is exploring options available within the State Parks system for providing additional nighttime beach parking. In the meantime, the control of time, place and manner of parking uses to protect privacy of residential development, and to protect against threats to public safety and to prevent damage to private property, is consistent with the City’s certified LCP and the Coastal Act (see Section 5 below).

**B. Growth Management System** – The development is consistent with the annual population limitation system established in the Land Use Plan and Zoning Ordinance.

The proposed project does not propose any new residential units; therefore, it is not subject to the City’s growth management system.

**C. Zoning Provisions** – The development is consistent with the use limitations and property development standards of the base district as well as the other requirements of the Zoning Ordinance.

The project is the authorization of an amendment to the City’s Master Traffic Resolution and the installation of signs and poles located within public right-of-way. The project is permitted within the applicable land use designations of the City’s General Plan/LCP. The project is not specifically regulated by “development standards” found within the Zoning Code, but the project is consistent with those Goals and Implementing Measures found in the City’s Local Coastal Program and in the City’s Circulation Element.

**D. Adequate Services** – The proposed development provides adequate services and infrastructure in a manner that is consistent with the Local Coastal Program.

The project will provide residential nighttime parking permit production and sales services and necessary signage and pole infrastructure to be in place at the time of initiation.

**E. California Coastal Act** – Any development to be located between the sea and the first public road conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

1) **Balancing Public Access with Public Safety Needs and Rights of Private Property Owners**

Portions of the affected streets in the Miramar/Naples neighborhood including streets located west of Alameda Ave., and portions of the affected streets of the Alsace Lorraine neighborhood, lie between the sea and the first public road. Therefore, the proposed project must be found to be consistent with Chapter 3 of the California Coastal Act.

Section 30210 of the Coastal Act states that:

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

By this section of the Coastal Act, the State of California recognizes the need to balance public rights to coastal access with the rights of property owners and public safety needs. The Nighttime Permit Parking program seeks to do just this by instituting the parking permit requirement aimed to quell disturbances associated with nighttime beach parking while protecting the public's right to access the coast with provisions for the sale of visitor parking permits and protection of the public's right to pedestrian use of the affected streets at all times. The question of balance lies in the degree of threats to public safety and private property, as well as the level of public access provided.

Threats to public safety and private property related to nighttime public parking on neighborhood streets has been documented and substantiated over the period of years during which the City has considered the need for a permit parking program, as demonstrated in the project file. Most recently, data further substantiating disturbances and threats have been collected by several different means: a resident survey, public testimonials and neighborhood incident documentation, and a review of police records. An analysis of such data is included in the record, and summarized below.

*Resident Parking Survey*

Feedback collected through a City-administered Resident Parking Survey provides quantitative documentation of the location, frequency and timing of nighttime beach parking-related incidences experienced by residents, as well as collaborative supplemental anecdotal information. Among 1700 surveys mailed to residents of four coastal neighborhoods, approximately 350 residents responded. Thirty percent of households from the western Miramar blocks (west of and including Alameda Ave.) responded, and thirty-four percent of households from blocks west of and including Alsace Lorraine Ave. (including from Central Ave. to Kelly Ave) responded.

The summary of responses indicates that the greatest magnitude and frequency of disturbances occur in the areas located closest to the beach and beach accessways, in particular in the northwestern-most blocks of Alsace Lorraine neighborhood (north of and including Correas Ave.) and west of Alameda Ave. in Miramar/Naples. The survey feedback does not provide the actual number of incidents reported, but reports on the number of respondents that have experienced problems. Among the 30% (representing 25 households) that responded in western Miramar, 36% of respondents have never experienced disturbances, and 64% experienced disturbances weekly, monthly and/or seasonally (some responded to all options); 60% of these disturbances were experienced between 9 PM and midnite. In Alsace Lorraine neighborhood, of the 34% of residents who responded, 30% have never experienced disturbances and 70% have experienced

disturbances weekly, monthly and/or seasonally, also generally between 9 PM and midnite, with 'after midnite' as the second most common period of disturbances.

The survey responses provided useful feedback that was factored with other considerations in the development of the proposed permit parking program, in particular in the definition of the areas to be affected by the permit requirement, and in establishing the timing of the program. The project location is specifically related to the blocks on which a significantly greater number of disturbances have occurred. The hours of the permit program likewise reflect the hours during which most disturbances occur, tempered by other input regarding timing, as discussed below.

#### Public Testimony and Neighborhood Incident Documentation

During two community meetings and two public hearings before the Planning Commission (as well as one public hearing before the City Council, held prior to the formal project consideration), members of the community spoke and provided testimonials of the significant level and frequency of disturbances related to nighttime public parking in the project area. The majority of public testimony supported the permit parking program, and a minority opposed it for reasons of inconvenience, cost, and "elitism."

The public record clearly shows that repeated incidents of disturbances, including drunkenness, loud noises, trespassing, vandalism and damage to private property, littering, and possession and demonstration of weapons or threatening actions, have occurred, particularly during summer or holiday weekends at night, over a period of years to represent a significant threat to privacy, public safety and security of private property.

#### Police Records

A summary of citations issued for relevant violations during the years 2000 to 2005 in the affected neighborhoods indicates that incidents of excessive noise, loud parties, trespassing, breaking the curfew, drunkenness in public, dumping, and vandalism have been cited in the affected and nearby blocks. Whereas the number of citations issued is relatively low, these do not necessarily reflect the total number of incidents that have occurred. Due to law enforcement standards, only those incidents that are observed by police officers can be cited. The Police Department indicates that incidents may regularly go unreported or un-cited.

Among the violations cited, some clearly cause damage to private property and some could cause injury to persons if left unattended. The citations noted here do not include nighttime speeding, which is a common complaint heard from neighbors.

#### 2) Adequacy of Alternative Public Parking

Whereas Section 30212 of the Coastal Act calls for "public access from the nearest public roadway to the shoreline and along the coast...in new development projects," it provides an exception where "adequate access exists nearby."

Section 30212.5 states, "Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area."

The availability and distribution of public parking in City and State beach parking lots is addressed above. At this time, public lots are not available to the general public for nighttime parking, but State lots do provide parking for special users (anglers, surfers, and holders of special events permits) as detailed above.

Alternative nighttime public beach parking is also available on unrestricted streets in both the affected and other coastal neighborhoods within the City, necessitating a walk of up to two additional city blocks in distance to reach the beach.

### 3) Need to Regulate Time, Plane and Manner of Public Access

The project's use of "controls on time, place and manner of uses... to protect the privacy of residential development" is consistent with Section 30214 which requires that:

"The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case..."

### Environmental Review – Findings

An Initial Study and Negative Declaration were filed and a 30-day public review period of such documents has lapsed. The Study and Declaration substantiated that the project would have no or less than significant impacts on the environment. Two letter of public comment were received and are acknowledged in the August 24, 2006 Agenda Report.

## CONDITIONS OF APPROVAL

### PDP-02-04

**Coastal Development Permit to establish a Nighttime Permit Parking Program in specified blocks of the Miramar/Naples and Alsace Lorraine neighborhoods, in the City of Half Moon Bay, including all facilities required for the program and the amendment of the City's Master Traffic Resolution to authorize the implementation.**

**Authorization:** Approval of this permit authorizes the amendment to the City's Master Traffic Resolution, installation of signs and poles in the affected neighborhood, and production and sales of parking permits.

#### CONDITIONS ADDED BY APPROVING MOTION AT AUGUST 24 PUBLIC HEARING

- A. The hours of the Nighttime Permit Parking Program are from 12 am (midnite) to 4 am daily.
  - B. Permit Parking signs will indicate the availability of parking permits and the telephone number to call for information.
  - C. The effectiveness of the parking program in quelling nighttime disturbances, and any impacts of the program on neighboring streets and other areas, will be monitored through a survey and reports from neighbors during one year, and will be reported to the Planning Commission.
  - D. The Coastal Development Permit will run for one year from the date of final approval.
1. CONFORMANCE WITH PROJECT DESCRIPTION. Development shall be in substantial conformance with the approved project description, except for any changes that may be required by these conditions of approval. The Planning Director shall review and approve any deviation from the approved project description. In the event that the Planning Director determines that any proposed changes warrant further Planning Commission review and approval, the applicant shall submit the revised project description for consideration at a public hearing before the Planning Commission.
  2. STORM WATER MANAGEMENT/EROSION CONTROL. During installation of signs and/or poles, the applicant shall minimize the transport and discharge of storm water from the project site by incorporation of the following measures into the construction site practices:
    - a. Stabilize any areas that have been stripped of vegetation, and maintain erosion control measures between October 15 and April 15.
    - b. Avoid stockpiling of soils or materials, when rain is forecast. Cover with a waterproof tarp during periods of rainy weather to control runoff. Monitor the site for minimization of erosion and sediment runoff every 24 hours during and after every storm event.
    - a. Avoid cleaning, fueling, or maintaining vehicles on site, except in an area designated to contain and treat runoff.
  3. DISCOVERY OF ARCHAEOLOGICAL RESOURCES. If historic or archaeological resources are uncovered during grading activities, all work shall stop and the applicant shall retain a qualified

archaeologist. At the applicant's expense, the qualified archaeologist will perform an archaeological reconnaissance and develop mitigation measures to protect archaeological resources.

4. HOURS OF CONSTRUCTION. The hours of construction shall be limited to a work schedule that is approved by the Public Works Director. The work schedule must avoid peak weekday commute hours.
5. CONSTRUCTION TRAILERS. Temporary construction trailers, if required, are permitted as accessory uses in conjunction with the development of this project, subject to the following conditions:
  - No construction trailer shall exceed 200 square feet in size.
  - The construction trailer shall be used as a temporary construction office only.
  - Neither sanitation facilities nor plumbed water is permitted within the trailer.
  - No overnight inhabitation of the construction trailer is permitted.
  - No construction trailers are permitted on site prior to encroachment permit issuance.
6. HAZARDOUS MATERIALS. Any materials deemed hazardous by the San Mateo County Department of Health that are uncovered or discovered during the course of work under this permit shall be disposed in accordance with regulations of the San Mateo County of Health.
7. COMPLETION OF FIRE DISTRICT REQUIREMENTS. All requirements of the Half Moon Bay Fire Protection District shall be met as needed.
8. EFFECTIVE DATE. The Coastal Development Permit shall take effect 10 working days after receipt of the Notice of Final Action by the Coastal Commission and upon the applicant/owner's submittal of a signed copy of these conditions of approval to the Planning Department, unless an appeal is filed.
9. ACCURACY OF APPLICATION MATERIALS. The applicant shall be responsible for the completeness and accuracy of all forms and material submitted for this application. Any errors or discrepancies found therein may be grounds for the revocation or modification of this permit and/or any other City approvals.
10. ENCROACHMENT PERMITS: All sign and poles shall be installed in the City's public right of way. No encroachment permits are required.
11. RECYCLED MATERIALS: All material removed for this project (pavement, base, soil, etc.) shall be recycled. The City shall be provided with documentation as to the weight of the material that has been recycled.
12. TEMPORARY STREET CLOSURES: Temporary City street closures are not likely to be necessary but will be permitted if needed. However, no overnight closures will be permitted. The project needs to be able to detour traffic to reach their destination. Special traffic detour (for example, flaggers) may be necessary to permit one lane of traffic routed around any work zones.
13. DISCOVERY OF ENVIRONMENTAL RESOURCES. If environmental resources are discovered at any point during the construction process, all work shall stop and the applicant shall retain a qualified biologist. At the applicant's expense, the qualified biologist will perform a biological reconnaissance and develop mitigation measures to protect biological resources.

**14. STORMWATER POLLUTION PREVENTION.** The project must follow all of the following stormwater pollution prevention practices:

**1.General Conditions:**

Schedule work in dry weather.

Protect storm drains with berms and filters in the event of wet weather.

Perform heavy equipment repair, maintenance and washing off site.

Designate a contained area away from storm drains and creeks for refueling and parking.

Repair leaking equipment immediately.

Clean up any spills immediately using dry clean up methods.

Dig up and properly dispose of spill-contaminated soil.

Cover stockpiled soil or backfill material with tarps

**2.Asphalt / Concrete Removal:**

Protect nearby storm drain inlets during saw-cutting.

Shovel or vacuum saw-cut slurry deposits and remove from site.

Make sure broken pavement does not come into contact with rainfall or runoff.

Remove all chunks or pieces of broken asphalt or concrete from the site.

Use dry sweep methods to clean up streets. Never hose down streets.

**3.When Paving:**

Avoid paving or seal coating in wet weather or when rain is forecast.

Cover and seal catch basins and manholes when applying seal coat, slurry seal, etc.

Never wash excess material from exposed aggregate or similar treatments into a street storm drain.

Catch drips from paver with drip pans or absorbent material when machine is not in use.

Collect and recycle or appropriately dispose of excess abrasive gravel or sand.

**4.Fresh Concrete:**

Prevent aggregate wash from entering storm drains.

Dispose of small amounts of excess concrete, grout, and mortar in the trash. \_\_\_\_\_

**15. REGIONAL COORDINATION:** The City or the City's contractor shall coordinate with state, regional and local government agencies, public utilities, and special districts to encourage the use of public and private infrastructure facilities in a manner that is consistent with the policies of the California Coastal Act and the City of Half Moon Bay Local Coastal Programs. accordingly to avoid school related traffic.

**16. HOLD HARMLESS.** The applicant agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against an and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, any review by the California Coastal Commission conducted under the California Coastal Act Public Resources Code Section 30000 et seq., or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The applicant's duty to

defend the City shall not apply in those instances when the applicant has asserted the Claims, although the applicant shall still have a duty to indemnify, protect and hold harmless the City.

**PERMITTEE'S CERTIFICATION:**

I have read and understand and hereby accept and agree to implement the foregoing conditions of approval of the Coastal Development Permit.

---

Paul Nagengast, Deputy City Manager

Mr. Chris Kern, District Manager  
California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219  
October 31, 2006

Subject: Appeal of Nighttime Permit Parking Program approved by Half Moon Bay

Dear Mr. Kern:

On September 28, the Half Moon Bay Planning Commission approved the subject parking program without addressing the concerns that we raised at that and earlier meetings, orally and in writing. Because other neighborhood streets are far removed from the beach or have limited vertical access, the effect of the program is to extract overnight parking deemed by the City to be a threat to peace, security and welfare from all other public neighborhood streets with short vertical access to the beach and to concentrate them on Pilarcitos Avenue in the neighborhood of Casa del Mar, which was excluded from the program area. The safety threat used to justify this plan to Coastal Commission staff was never presented to our neighborhood, and no explanation has been offered for why this allegedly hazardous visitor-serving facility should be concentrated on our street in violation of Coastal Act §30212.5, an adopted policy of the Half Moon Bay Local Coastal Program. Contrary to staff and planning commissioner claims that survey results indicate that our neighborhood has no concerns about this project, our neighbors do object to the approved project, as reflected by their statements in support of this appeal.

To reduce overnight visitor / resident conflict, we urged the City to allow overnight parking at the state beach and Poplar Street lots. The Planning Commission accepted staff's claim that the City could not open the state beach's parking lot or the City's Poplar Road lot for overnight parking because it would be hard to police. Yet at its October 17, 2006 meeting the City Council opened the Poplar Road lot until midnight and after 4 a.m., dovetailing with this parking program and insulating other beachfront neighborhoods from hazardous visitors. We believe this lot and perhaps the state beach lot could be opened all night, providing a real alternative to the fictional neighborhood parking depicted on the staff report and CEQA maps, and actual concentration of near-beach parking on Pilarcitos Avenue.

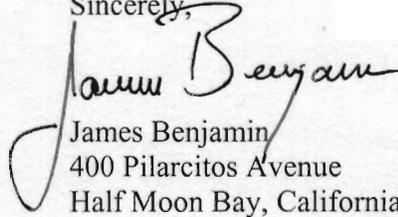
After the Planning Commission approved the project, our concerns were documented in a letter to Interim Planning Director Steve Flint with an invitation to resolve them at the City level. Mr. Flint reported that the City Council would not consider them without receiving a \$200 appeal fee. Given the unsympathetic response of the City to our concerns, we opted to wait for the local action to become final, and we are now appealing the City's decision to the Coastal Commission. Attached please find a completed copy of

the "Appeal from Coastal Permit Decision of Local Government" form for the North Central Coast District, along with the referenced correspondence.

In addition to concerns about the project's consistency with Coastal Act §30212.5, our appeal also raises issues of consistency with §30252.6, 30240, 30230 and 30231, all of which are also adopted as policies in the Half Moon Bay Local Coastal Program. We would gladly answer any questions not clarified by our attachment.

As we indicated in our letter to Mr. Flint, we are open to finding a mutually agreeable resolution that would permit us to withdraw our appeal. Failing that, we hope that your staff's analysis will help us persuade the Coastal Commission to uphold our appeal and approve this project if and only if it is modified to conform to our Local Coastal Program.

Sincerely,

  
James Benjamin  
400 Pilarcitos Avenue  
Half Moon Bay, California 94019

  
Sofia Freer  
984 Pilarcitos Avenue  
Half Moon Bay, California 94019

Attachments:

CCC North Coast Central District Appeal Form and Appeal of PDP-02-04  
Statements in support of this appeal from:

Zoya D. Benjamin	400 Pilarcitos Avenue
Kim and Diana Baughman	428 Pilarcitos Avenue
Lou and Sally Sheward	456 Pilarcitos Avenue
Dr. John and Irva Neff	484 Pilarcitos Avenue
Sheri Wagener & Mike Peck	568 Pilarcitos Avenue
Mike Marloan	680 Pilarcitos Avenue
Pam and Lyle Bissell	736 Pilarcitos Avenue
Dr. Juli Barr and Allison Akana	792 Pilarcitos Avenue
Chris and Nan Orman	820 Pilarcitos Avenue
Steven Freer	984 Pilarcitos Avenue
Ed and Barb Lambing	1000 Pilarcitos Avenue
Fred and Barbara Lambert	1100 Pilarcitos Avenue
Dave and Valerie Powell	1200 Pilarcitos Avenue
Jim and Judy Shoolery	1300 Pilarcitos Avenue
Bill Borba and Michelle Provencio	1400 Pilarcitos Avenue
Leslie Harrop	400 Kehoe Avenue

Attachment 1 from August 24, 2006 staff report to Planning Commission on PDP-02-04

(also pp 24 and 25 of Attachment 12, approved Initial Study and Negative Declaration)

Exhibit A: Map of Project Area Miramar/Naples Neighborhood

Exhibit B: Map of Project Area, Alsace Lorraine Neighborhood

(highlighted to show paper subdivisions in yellow, state beach in purple, and location of Poplar lot)

Map of St. John Subdivision Unit No. 3, San Mateo County Book of Maps Volume 118, page 44

Google map of Casa del Mar annotated to show vertical access from Pilarcitos Avenue

Letter exchange between Planning Director Steve Flint and James Benjamin

Pilarcitos Creek Annual Watershed Report, January 1, 2005 – December 31, 2005

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: James Benjamin Sofia Freer
Mailing Address: 400 Pilarcitos Avenue 984 Pilarcitos Avenue
City: Half Moon Bay Zip Code: 94019-1475 Phone: (650)283-5463; 712-1652

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Half Moon Bay

2. Brief description of development being appealed:

A Nighttime Parking Permit Program in specified blocks of the Miramar/Naples and Alsace Lorraine neighborhoods, in the City of Half Moon Bay (PDP-02-04). Under the approved project all vehicles parked within the Nighttime Permit Parking area must display a parking permit.

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

In the Miramar/Naples neighborhood: Both sides of Alameda Ave., and all blocks west of Alameda avenue including Mirada Rd., and San Andreas, Alcatraz, Santa Rosa, Guerrero, San Pablo, Naples, Washington, and Roosevelt Avenues; in the Alsace Lorraine neighborhood: All blocks west of Alsace Lorraine Ave. and north of Correas Ave. including both sides of the following streets: Kelly Avenue, Miramontes Ave., Correas Ave., Alsace Lorraine Ave., Balboa Ave., Ocean Ave. and Potter Ave.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
Approval with special conditions:
Denial

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

TO BE COMPLETED BY COMMISSION:
APPEAL NO:
DATE FILED:
DISTRICT:

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 24 Aug 06 and 28 Sept 06

7. Local government's file number (if any): PDP-02-04

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

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

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

(1) Terry Andreotti  
227 Kelly Avenue  
Half Moon Bay, CA 94019

(5) Roselyn Ramsey  
47 Valencia Street  
Half Moon Bay, CA 94019

(2) Cal Carter  
233 Miramontes Avenue  
Half Moon Bay, CA 94019

(6) Larry Kay  
12 Sunset Terrace  
Half Moon Bay, CA 94019

(3) Karen Erickson  
18 Valencia Street  
Half Moon Bay, CA 94019

(7) Wayne Hinthorn  
201 Miramontes Avenue  
Half Moon Bay, California

(4) Phil Hill  
2 Alameda Avenue  
Half Moon Bay, CA 94019

(8) Mike Kimsey  
173 Correas Street  
Half Moon Bay, CA 94019

Continuation of Section III. b. List of interested parties

- (9) Kim and Diana Baughman  
428 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (10) Lou and Sally Sheward  
228 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (11) Dr. John and Irva Neff  
256 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (12) Sheri Wagener and Mike Peck  
568 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (13) Make Marloan  
680 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (14) Pam and Lyle Bissell  
736 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (15) Chris and Nan Orman  
820 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (16) Ed and Barb Lambing  
1000 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (17) Fred and Barbara Lambert  
1100 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (18) Dave and Valerie Powell  
1200 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (19) Jim and Judy Shoolery  
1300 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (20) Bill Borba and Michelle Provencio  
1400 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (21) Mr. Leslie Harrop  
400 Kehoe Avenue  
Half Moon Bay, CA 94019
- (22) Steve Freer  
984 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (23) Zoya Benjamin  
400 Pilarcitos Avenue  
Half Moon Bay, CA 94019
- (24) Kevin Lansing  
359 Filbert Street  
Half Moon Bay, CA 94019
- (25) Dennis and Sabine Kleinbach  
708 Pilarcitos Avenue  
Half Moon Bay, CA 94019

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

### SECTION IV. Reasons Supporting This Appeal

#### **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The project findings claim "The proposed Nighttime Parking Permit program has been designed to address conflicts that have arisen over a period of years between the public that uses neighborhood streets for nighttime beach parking, and the peace, security and welfare of residences living close to the coastline." However the project area excludes and concentrates such parking on a single street close to the beach and with excellent vertical access, Pilarcitos Avenue west of the Casa del Mar neighborhood, in violation of Coastal Act §30212.5 (adopted as policy in Half Moon Bay's Local Coastal Program).

Naples, Miramar and Alsace Lorraine residents living east of the project area expressed concerns about threats to peace, security and welfare migrating to their streets. At the August 24, 2006 Planning Commission Meeting, City staff persuaded the Planning Commission that these concerns were not justified, explaining that the troublemakers at whom this program is directed are lazy, and would leave the project area neighborhoods to seek other streets adjacent to the beach where parking is uncontrolled.

Residents of Pilarcitos Avenue did participate in the City's survey. The respondents of the survey were certainly not aware of staff's conflicting beliefs that troublesome visitors would congregate on some other neighborhood street close to the beach (staff response to questioning from public and planning commission on 24 August 2006) but that "there is little chance that Casa del Mar would be the recipient of a spillover effect from the nighttime parking program in the other neighborhoods." (8 June 2006 staff report p4, paraphrasing p1). No evidence was provided to support this belief. But most residents were willing to be excluded from the project based on the project condition that permitted the neighborhood to be added to the project area should trouble migrate from the project area to Casa del Mar.

In response to CCC staff comments during CEQA review about the project's consistency with coastal access provisions of the Coastal Act, however, the City of Half Moon Bay dropped the provision allowing the project area to be expanded in the event that threats to peace, security and welfare migrated outside the project area. The neighborhood did not receive notice of this significant change. The City assured the CCC staff that other city streets could accommodate visitors without permits seeking overnight parking close to the beach. Maps that accompanied the August 24, 2006 staff report misleadingly showed unimproved roads and undeveloped neighborhoods without vesting tentative maps as evidence of such available street parking. Despite changing conditions after the CEQA comment period to avoid impacts on coastal access and omitting from the public record and not responding to comments on these post-CEQA review period changes, Planning Commission approved a Negative Declaration on September 28, 2006 with virtually no discussion. This violates several CEQA requirements and guidelines as the attachment details, and cannot be a CEQA-equivalent process that can produce the findings mandated by CCR 13096.

Once the fictitious streets are stricken from the maps, the impact of the project are clear. City streets south of the Alsace Lorraine project area long and undedicated vertical trails to the coast and in many cases overnight parking on the streets is saturated by neighborhood residents. Chesterfield Avenue and the other city streets in the Ocean Shore neighborhood do not provide coastal access. City Staff insistence that the project will not hinder coastal access, assurance that visitors who threaten peace, security and welfare will move to another neighborhood with easy beach access rather than park away from the beach, and the existence of a single street near the beach with easy coastal access and uncontrolled overnight parking implies that the alleged threats will concentrate on that single short street and nearby portions of incident streets. Therefore the project cannot be consistent with both Coastal Act §30211 and §30212.5 (adopted as policies in Half Moon Bay's Local Coastal Program).

In addition, no evidence is presented that the project would not result in significant adverse impact on the sensitive habitat areas on the beaches west of Casa del Mar as a result of intensified visitor use, as detailed in the attachment. No conditions are included to mitigate these potentially significant impacts. This prevents the project from being found consistent with Coastal Act §30240, 30230 and 30231 (all adopted as policies in Half Moon Bay's Local Coastal Program).

Moreover, the project does not exempt vanpool drivers and passengers from having to purchase parking permits to park overnight on the street within the project area. This forces residents to choose between receiving protection from alleged threats to peace, security and welfare and the cost of purchasing permits for vanpooling, which makes the project inconsistent with Coastal Act 30252.6 (adopted as a policy in Half Moon Bay's Local Coastal Program).

A new hearing and either revision to address these concerns or denial is sought on these grounds. Please see attached appeal document for details.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

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

Juan Benjumea      Sofia M. Fuen  
Signature of Appellant(s) or Authorized Agent

Date : 31 October 2006

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

**Section VI. Agent Authorization**

I/We hereby authorize not applicable  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date : not applicable

**DOCUMENTS SUBMITTED WITH FORM**

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL  
GOVERNMENT**

**FOR PDP-02-04**

# APPEAL OF PDP-02-04

## Introduction

This appeal concerns PDP-02-04, the City of Half Moon Bay's application for a Coastal Development Permit and amendment of the City's Master Traffic Resolution to establish a Nighttime Permit Parking Program in specified blocks of the Miramar/Naples and Alsace Lorraine neighborhoods. PDP-02-04 was approved by the Half Moon Bay Planning Commission on 28 September 2006. After reviewing the entire public record, the appellants strongly believe the project should either be denied or revised to address the following concerns:

1. Approval of the permit would not comply with the policies of the City of Half Moon Bay Local Coastal Program (LCP).

Neither the staff nor the Planning Commission considered compelling evidence in the record that the project does not conform to Local Coastal Program policies concerned with the prohibiting concentration of parking (in this case, overnight parking near the beach) in a single area.

Neither the staff nor the Planning Commission considered the adverse impact of intensifying nighttime beach use (whether prohibited or not) in the environmentally sensitive area west of Pilarcitos Avenue.

Neither the staff nor the Planning Commission considered the adverse impacts of requiring vanpool participants to purchase permits to park overnight on city streets within the project area.

2. Approval of the permit would not comply with the California Environmental Quality Act. Section 13096 of the Coastal Commission's administrative regulations requires approval of CDP applications to be supported by a finding that the application, as modified by any conditions of approval, is consistent with the California Environmental Quality Act (CEQA). The EIS shows non-existent neighborhoods on its maps and cites condition deleted in response to CEQA review comments to justify claims of no impact. The applicant's acknowledgement of the coastal access impact raised by Coastal Commission staff and the resulting post-circulation change of conditions in the project precludes use of the outdated negative declaration to satisfy the requirements of CEQA.

A summary of the evidence in the record and bases for appeal (including relevant law and guidelines, analysis, and issues) follow. The appellants respectfully request that if the issues raised in this appeal cannot be resolved by expanding the project boundaries and revising its conditions, then this project should be denied.

## Evidence in the Record

In section IV of the Half Moon Bay Planning Department's 24 August 2006 report, staff indicates that the CEQA public comment review period for this project ended on 15 August 2006. After this date and in response to Coastal Commission staff concerns about the flexible scope of the project area being inconsistent with section 30211, staff revised the project to reflect that expansion of the project would be require an amendment to the CDP, rather than administrative discretion. The findings attached to the Coastal Development Permit for PDP-02-04 that was approved by the Planning Commission included the following (page 6 of findings):

### 2) Adequacy of Alternative Public Parking

Whereas Section 30212 of the Coastal Act calls for “public access from the nearest public roadway to the shoreline and along the coast...in new development projects,” it provides an exception where “adequate access exists nearby.”

Section 30212.5 states, “Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.”

The availability and distribution of public parking in City and State beach parking lots is addressed above. At this time, public lots are not available to the general public for nighttime parking, but State lots do provide parking for special users (anglers, surfers, and holders of special events permits) as detailed above.

Alternative nighttime public beach parking is also available on unrestricted streets in both the affected and other coastal neighborhoods within the City, necessitating a walk of up to two additional city blocks in distance to reach the beach.

Exhibits A and B attached to the findings show the project area. These maps are flawed in several respects:

- In addition to defining the project area, they do not distinguish between existing subdivisions and the following paper subdivisions which cannot provide the claimed overnight parking:
  - adjacent to Balboa Avenue
  - south of Miramar (off of Young and Venice)
  - west of Railroad Avenue.
- The maps also show the existing neighborhood south of Alsace Lorraine and east of Railroad Avenue, but the accompanying document does not discuss the saturated residential overnight parking, nor does it discuss limited coastal access and long distance between this neighborhood and the beach.
- The maps do not include the portion of Pilarcitos Avenue adjacent to the state beach and west of the neighborhood of Casa del Mar. This area will be the recipient of the displaced parking.

During the public hearing of PDP-02-04, the Planning Commission received testimony that the project would expose Pilarcitos Avenue west of Casa del Mar, (which is adjacent to Half Moon Bay State Beach and offers several short vertical trails providing coastal access, shown in attachments to this appeal) and incident streets to the hazards deemed by the Planning Commission to be significant enough in other neighborhoods to warrant the parking program that is the subject of PDP-02-04. At the conclusion of the August 24 public hearing, one member of the Planning Commission confirmed that a problem could occur with increased public awareness of the vertical access from Pilarcitos Avenue, but neither staff nor other commissioners responded to the public’s or the commissioner’s observation, and no conditions or mitigations addressing this issue were proposed or incorporated into the approved project. These concerns were communicated by letter to the Planning director in early September. When no response was received by September 26, 2006 the letter was also emailed to the Planning Commissioners and Planning Director before the Planning Commission approved the CEQA document on September 28, 2006. Although no affirmative action had been taken to close the comment period and the Planning Commission had not acted on the CEQA document, and despite explicit reference via letter in public testimony, the letter was not mentioned in the September 28 staff report, nor was the letter placed in the public record.

The Planning Commission also received testimony that the project would expose neighborhood streets east

of the project area to these hazards. Staff responded that the visitors whose behavior constitutes the hazards that justify this CDP are lazy, and that rather than parking more than two blocks from the beach, these visitors will leave the neighborhood in search of parking closer to the beach. Staff did not provide any evidence to support this claim.

Members of the public suggested that by opening the state beach and the City's Poplar Street parking lots, adequate parking for overnight visitors could be provided without creating the conflict between residents and visitors that motivates PDP-02-04. Staff responded that state beach officials had indicated that they would be willing to open the lot if the City of Half Moon Bay took responsibility for policing it. The staff report (page 3) states that the City's own regulations made opening the Poplar parking lot infeasible. Notwithstanding this, the Council recently extended the Poplar lot's hours from 4am to midnight.

Terry Andreotti, an owner of property on Kelly Avenue held out the possibility of providing overnight parking on their property. This possibility was not discussed during planning commission deliberations.

## **Basis of Appeal.**

### ***Inconsistency of Project with Local Coastal Program***

#### **Relevant Law**

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

Chapter 2 of Half Moon Bay's Local Coastal Program – Land Use Plan explicitly adopts the following Coastal Act policies:

30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

30212.5. Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area. [emphasis added]

30252.6. The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service,..., (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation... [emphasis and ellipsis added]

30240. Environmentally sensitive habitat areas; adjacent developments

- a) Environmentally sensitive habitats areas shall be protected against significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas. [emphasis added]

30230. Marine resources; maintenance. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. [emphasis added]

30231. Biological productivity; water quality. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas the protect riparian habitats, and minimizing alteration of natural streams. [emphasis added]

## **Analysis**

An earlier version of this project included a condition that the project area could be expanded if problems associated with overnight visitor parking migrated to neighborhoods outside of the project area. The earlier version also required cars parked on public streets in the project area to display parking permits for a larger portion of the evening and night. In response to Coastal Commission staff and others' concerns that such a project might provide substantive grounds for appealing the project to the Coastal Commission for inconsistency with §30211, the applicant dropped the condition permitting project area expansion without a CDP amendment. The Planning Commission further revised the conditions to reduce the hours during which a parking permit was required in order to park in the project area.

Evidence in the record shows that much of the overnight parking in Half Moon Bay neighborhoods not included in the project area has inconvenient, if any, coastal access. Overnight parking adjacent to the beach with short vertical trails for visitors, but which does not require a parking permit has been concentrated on a short expanse of single street (Pilarcitos Avenue, to the west of the Casa del Mar neighborhood) and incident streets. Residents in this area whose concerns were once calmed by the now-removed expansion provision are understandably concerned by the staff observation that lazy, hazard-inducing visitors will seek parking on streets adjacent to the beach and with vertical access, exactly the conditions on Pilarcitos Avenue and incident streets. The staff report does not explain why concentration of such visitors on Pilarcitos Avenue and incident streets in Casa del Mar is feasible and appropriate. Since this neighborhood has no more commercial or visitor-servicing facilities than the neighborhoods in the project area, it is unlikely that any explanation for such a concentration can be given.

If staff were to reconsider their claim that these troublesome visitors will only park on streets adjacent to the beach, then the impact of the project on communities adjacent to the project area was incorrectly characterized as not significant in response to Planning Commission and public questions, and such an impact would not have been acknowledged, discussed or mitigated in the CEQA documents that accompany the approved project.

In its only reference to §30212.5, the planning department staff report states

Alternative nighttime public beach parking is also available on unrestricted streets in both the affected and other coastal neighborhoods within the City, necessitating a walk of up to two additional city blocks in distance to reach the beach. [Emphasis added]

Using the artfully-worded fig leaf “up to two additional city blocks” rather than “at least two additional city blocks” the statement may be true, but does not address consistency with §30212.5. Although parking further from the beach is available in many neighborhoods, the nighttime beach parking close to the beach and with short vertical trails for access that attracts the hazardous behavior is not available anywhere else in the City, except at Pilarcitos Avenue (as shown on an attachment to this appeal) and incident streets. There is no acknowledgement, discussion or mitigation of the impact of concentrating misbehaving visitors in this small area. The implied conclusion that the project is consistent with §30212.5 is not supported by any evidence.

The project also has the unintended effect of penalizing publicly subsidized commuter vanpools within the project area. As approved, the project would require drivers of vans to obtain a parking permit for the van to be parked overnight on the street. If passengers’ parked cars occasionally remain on the street in the project area during controlled hours, those passengers would also be required to obtain parking permits. Because these permitting requirements punish users of public transit, findings cannot be made that the project is consistent with Chapter 2 policy and Coastal Act §30252.6.

The concentration of overnight visitors also increases the likelihood of damage to sensitive coastal resources. Several short vertical access trails connect Pilarcitos Avenue to the Coastal Trail. From the Coastal Trail there are two formal access ways to the sandy beach and informal access down an eroding cliff. The southernmost access way takes visitors across a bridge over Pilarcitos Creek and onto a boardwalk that terminates between two permanently designated Western Snowy Plover Habitat protection areas. The other two access ways necessitate walking across Pilarcitos Creek. Visitors have thrown construction pallets and other materials to facilitate the crossing. Both crossings north of the bridge place visitors on dune-backed beaches that serve as nesting and roosting sites for numerous shore birds, including the Western Snowy Plover. Illegal nighttime fires on the beach and below vegetated dunes adjacent to Pilarcitos Creek are frequent, and result in broken glass bottles, noxious fumes from combustion of plastics, and debris which washes down Pilarcitos Creek or is swept directly into the ocean by wave action. The illegal fires disturb roosting and nesting shore birds, have caused two small fires on vegetated bluffs during

the last four years, and continue to pose fire danger to homes on Pilarcitos Avenue. Wading across Pilarcitos Creek, which is had been shown to be contaminated with e-coli, poses a health risk to visitors (see Pilarcitos Creek Watershed Report, attached). Concentrating nighttime visitors on the beach west of Pilarcitos Avenue would exacerbate these problems and have a deleterious effect on coastal resources. Neither the staff report nor the EIS consider these project consequences, which are not consistent with LCP Chapter 3 policies and Coastal Act §30240, 30230 and 30231.

The burden for providing evidence to support the claim of consistency with the Half Moon Bay Local Coastal Program rests with the applicant, not with appellants. In the absence of such supporting evidence, and given the above contradicting evidence, a finding that the project conforms to Half Moon Bay LCP Chapter 2 policies and Coastal Act §30212.5 and 30252.6, and to Chapter 3 policies and Coastal Act §30240, 30230 and 30231 cannot be made.

## **Issues**

When urged to slow down and share the revised project with neighborhood citizens, the applicant or the Planning Commission were free to amend the project with additional conditions to make the project consistent with LCP by expanding the project area to include Pilarcitos Avenue west of Casa del Mar and portions of the perpendicular streets that intersect Pilarcitos Avenue in this neighborhood. They were also free to continue the project to obtain more public feedback. They chose neither. The appellants respectfully request that the project be modified to be consistent (1) with LCP policies and Coastal Act §30212.5, §30240, 30230 and 30231 by including such public streets in the project area; (2) with LCP policy and Coastal Act §30252.6 by exempting commuter van pool drivers and commuters from obtaining permits to park in the project area. Failing that, the appellants respectfully request that the project be denied.

## ***Inadequacy of CEQA-equivalent documents***

### **Relevant Law**

CCR 13096 requires that a specific finding be made in conjunction with the coastal development permit showing the application to be consistent with any applicable requirements of CEQA.

CEQA §21080(c)(2) permits the use of use a negative declaration or mitigated negative declaration when an initial study identifies potentially significant effect on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant *before* the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where *clearly* no significant effect on the environment would occur, and (B) there is no substantial *evidence in light of the whole record before the public agency* that the project, as revised, may have a significant effect on the environment. [emphasis added] .

CEQA §21080(d) mandates that *if there is substantial evidence* in light of the whole record before the lead agency that the project may have a significant effect on the environment, an environmental impact report shall be prepared. [emphasis added]

CEQA §21080(e) defines “substantial evidence” to include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

CEQA §21080.5(d)(2)(A) prohibits approval of a proposed development if there are feasible alternatives or mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment.

The original determination whether to prepare either a Negative Declaration or an EIR is subject to the "fair argument" test (*Laurel Heights Improvement Assoc. v. U.C. Regents* (1993) 47 Cal.3d 376). In other words, when a fair argument can be raised on the basis of substantial evidence in the record that the project may have a significant adverse environmental impact -- *even if evidence also exists to the contrary* -- then an EIR is required. [emphasis added]

Simply filling out an initial study checklist without citing supporting information is insufficient to show the absence of significant effects (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296).

CEQA guidelines 15042 provides public agencies the authority to disapprove projects to avoid significant impacts that would occur if a project were approved as proposed.

CEQA guidelines 15126.6 provides that feasible project alternatives must be evaluated.

## Analysis

Substantial evidence (more than a fair argument) was presented by Coastal Commission staff comments during the CEQA review period that the initially proposed project could have a significant impact on coastal access, causing staff to revise the project. The revised project would concentrate near-beach overnight public parking without permits, deemed by staff and the Planning Commission to be a hazard to residents in the project area, on Pilarcitos Avenue and incident streets in western portions of the Casa del Mar neighborhood. Whether intended or not, this would result in a significant increase in evidently troublesome nighttime traffic parking on the referenced street (not acknowledged in CEQA checklist page 19, item XV(a)). By not opening the Poplar parking lot or state beach lots, it potentially results in inadequate overnight parking during peak use periods (not acknowledged in CEQA checklist page 21 item XVII(c)). It would also violate §30212.5 of the California Coastal Act which is explicitly adopted as part of Half Moon Bay's Local Coastal Program (not acknowledged in CEQA checklist page 13, item IX(b)). Finally, the discussion of mandatory findings of significance (pages 21 and 22, item XVII(b)) suggests that the program could be expanded to mitigate impacts in other areas. In fact, staff *deleted* project conditions that allowed expansion in the event of migrating adverse impacts, in response to California Coastal Commission staff comments that unconstrained expansion could be inconsistent with LCP Chapter 2 policy and Coastal Act §30211. The potential significant unmitigated impact on water quality and the habitat of listed species, in violation of LCP policies, is not acknowledged in CEQA checklist page 7 item IV(a), (b), (c), and (e).

CEQA requires that mitigations be real. Because such expansion would require an amendment to the coastal development permit, let alone one that is unlikely to survive Coastal Commission scrutiny, the stated expansion of the project area by amending this CDP cannot justify a claim of no impact, nor could it be cited as a mitigation for the current project.

CEQA and associated regulations provide the option of a mitigated negative declaration as an incentive to motivate project applicants to present projects that have been designed so carefully that no fair argument would exist that could challenge the finding that the project has no significant unmitigated impacts. The law *requires* that a complete study be undertaken if fair arguments are raised that the initial study and mitigated negative declaration are not complete. Although they have not so stated, planning staff's decision to not respond to comments about the revised project appears to suggest they believe the comments were too late to require response. Since the applicant's revision in the project as response to the concerns of the Coastal Commission were not known until after August 15, 2006, the appellants could not possibly have known of the impact, let alone have commented prior to August 15. It would therefore be absurd to exclude appellant comments on the revised project from CEQA record by arguing that the comment period expired.

The above evidence shows that (a) staff asserted that hazard-creating visitors will move to a street adjacent to the beach with good coastal access; (b) the inclusion without discussion of maps showing neighborhoods with saturated overnight street parking and paper subdivisions that don't have vesting

tentative maps, let alone street parking, suggests that staff and the Planning Commission apparently believed that the fictitious beach front parking associated with these neighborhoods was available; and (c) consequently the CEQA document could not adequately acknowledge, discuss or mitigate the significant impact that the project would have on the referenced portion of Pilarcitos Avenue. Increasing the density of visitors whose behavior causes a hazard in the project area by forcing them to seek parking near the beach with vertical access in another neighborhood creates a significant unmitigated impact in the receiving neighborhood. This significant impact is not acknowledged, discussed or mitigated. That it resulted from a substantial change in the project after it was circulated for public comment is sufficient to require an EIR under CEQA §21080(d).

Alternative nighttime public beach parking might also have been provided at the end of Poplar or at Half Moon Bay State Beach, or on private property on Kelly Avenue as suggested by that property owner. These parking strategies would minimize the conflicts between visitors and residents (a subject frequently addressed in the text of Chapter 2 of the Half Moon Bay Local Coastal Program); these areas are compact enough for efficient policing; and yet these alternatives were ignored or dismissed out-of-hand without informed discussion, even though the City Council subsequently extended the hours of the Poplar lot. The CEQA document does not compare the effects of such alternative near-beach overnight parking outside neighborhoods to the proposed parking on a single neighborhood street. Since no EIR was prepared, the documents do not provide a thorough analysis of the feasibility of the project alternative, including mitigations, as required by CEQA guidelines 15126.6.

## **Issues**

Once these concerns were made part of the public record, the applicant and Planning Commission were free to conclude that an EIR was required, or to withdraw the project and submit a new project with new documents as part of a new process that would satisfy the requirements of CEQA mitigated negative declaration. Rather than pursuing either of these alternatives, the applicant chose to pursue approval of an incompletely and inadequately revised initial study and negative declaration, notwithstanding the fair arguments to the contrary in the record. The appellants assert that the applicant has not shown the proposed project to be consistent with the stated sections of CEQA, and with corresponding components of the CEQA-equivalent processes that governs the processing of coastal development permits under the Coastal Act. The appellants respectfully request that the project and its CEQA-equivalent documentation be modified to acknowledge the above-described impacts, and to address these significant unmitigated impacts by requiring the applicant (a) to include Pilarcitos Avenue and incident streets in Casa del Mar in the project area, along with any other neighborhood street that is similarly situated (i.e., adjacent to the beach and with vertical trails providing coastal access) that has escaped the appellant's attention; to exclude vans used in public transit vanpools and the vehicles of vanpool riders from having to display permits or their users from having to paying permit fees; to incorporate mitigations to insure that coastal access is not impaired by the project; to incorporate mitigations that reduce any impact of overnight visitors parking adjacent to any sensitive habitats to a less-than significant level; and (b) to follow required CEQA-equivalent processes for making such changes. Failing that, the appellants respectfully request that project be denied.

## **Conclusion**

The appellants acknowledge the City's authority to pursue a Nighttime Parking Program, and gives the City the benefit of the doubt that the City could craft such a program to be consistent with §30211. But projects must be consistent with *all* LCP policies, and PDP-02-04 as approved by the Half Moon Bay Planning Commission fails to be consistent with LCP and Coastal Act §30212.5, 30240, 30230, 30231 and 30252.6.

Moreover, the vehicle chosen by the City to demonstrate CEQA-equivalent compliance, a mitigated negative declaration, is incompatible with the impacts and administrative history of this project. The City as applicant has a responsibility to its citizens to set an example for environmental review that can be expected of private applicants.

In light of these project shortcomings, the appellants respectfully request that the Coastal Commission uphold our appeal and require either that the project be amended to address our concerns, or that the project be denied.

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x Zoya Amy Be...

date 10/28/06

Conditions : xxxx

x xxxx date xxxx

x xxxx date xxxx

address 400 Pilarcitos Ave Half Moon Bay, CA 94019

Conditions : xxxx

Conditions : xxxx

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x 

date 10/28/06

x Diana O. Baughman

date 10/28/06

x

date

address 428 F. H. ... Ave

HMB, CA. 94038-94019

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x         Louis E. Sheward         date         10/27/06        

x         Dally B Sheward         date         10/27/06        

x \_\_\_\_\_ date \_\_\_\_\_

address         456 Pilarcitos Ave

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x Mr. H. Neff date 10/27/06

x John P. Neff date 10/27/06

x \_\_\_\_\_ date \_\_\_\_\_

address 484 Pilarcitos Ave, Half Moon Bay, CA

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x Michael E. Leeb date 10/28/06

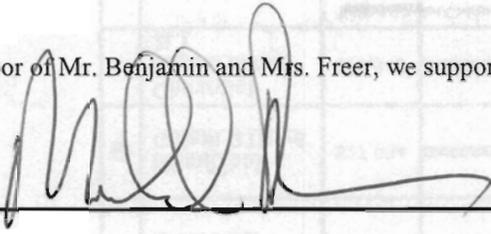
x [Signature] date 10/28/06

x \_\_\_\_\_ date \_\_\_\_\_

address 568 Pilarcitos Ave.

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x



date

10/28/06

x

date

x

date

address

680 PILARCITOS AVE, HALF MOON BAY

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x Pamela Bristol date 10/29/06

x [Signature] date 10-29-06

x \_\_\_\_\_ date \_\_\_\_\_

address 736 Pilaratoo Avenue, HMB CA 94019

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x John Ben date 10/28/06

x Allison date 20/28/06

x \_\_\_\_\_ date \_\_\_\_\_

address 792 PILARCITOS AVENUE

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x Wanette G. Orman date 10/28/06

x John Charles Orman date 10/28/06

x \_\_\_\_\_ date \_\_\_\_\_

address 820 PILARCITOS AVE HMB

As a neighbor of Mr. Benjamin and Mrs. Freer we support their appeal.

x Stephan T Freer date 10/28/06

x \_\_\_\_\_ date \_\_\_\_\_

x \_\_\_\_\_ date \_\_\_\_\_

address 984 Pilarcitos Ave, Half Moon Bay, CA 94019

As a neighbor of Mr Benjamin and Mrs. Freer, we support their appeal.

x Edward Lambing date 10-29-06  
EDWARD LAMBING

x Barbara Lambing date 10-29-06  
BARBARA LAMBING

x \_\_\_\_\_ date \_\_\_\_\_

address 1000 PILARCITOS AVE.

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

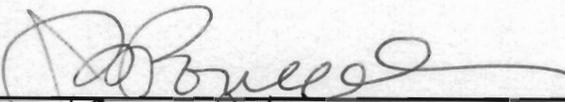
x Frederick Lambert date 10/29/06

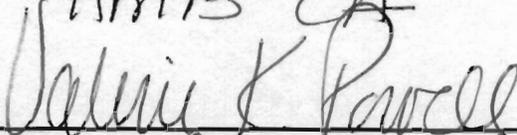
x Barbara E Lambert date 10/29/06

x \_\_\_\_\_ date \_\_\_\_\_

address 1100 Pilarcitos Ave, Half Moon Bay, Ca

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x  date 10/29/06  
1500 Pilarcitos Ave  
HMB CA

x  date 10/29/06  
1200 Pilarcitos Ave  
Half Moon Bay CA

x \_\_\_\_\_ date \_\_\_\_\_

\_\_\_\_\_  
address \_\_\_\_\_

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x James M. Shooley

date October 28, 2006

x James M. Shooley

date October 28, 2006

x

date

address 1300 Pilarcitos Ave. HMB

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x Michelle Proencio date 10/28/06

x William A. Borzba Jr date 10-29-06

x \_\_\_\_\_ date \_\_\_\_\_

address 1400 Pilarcitos Ave. Half Moon Bay CA, 94019

As a neighbor of Mr. Benjamin and Mrs. Freer, we support their appeal.

x LESLIE HARROP Leslie Harrop date 10-28-06

x \_\_\_\_\_ date \_\_\_\_\_

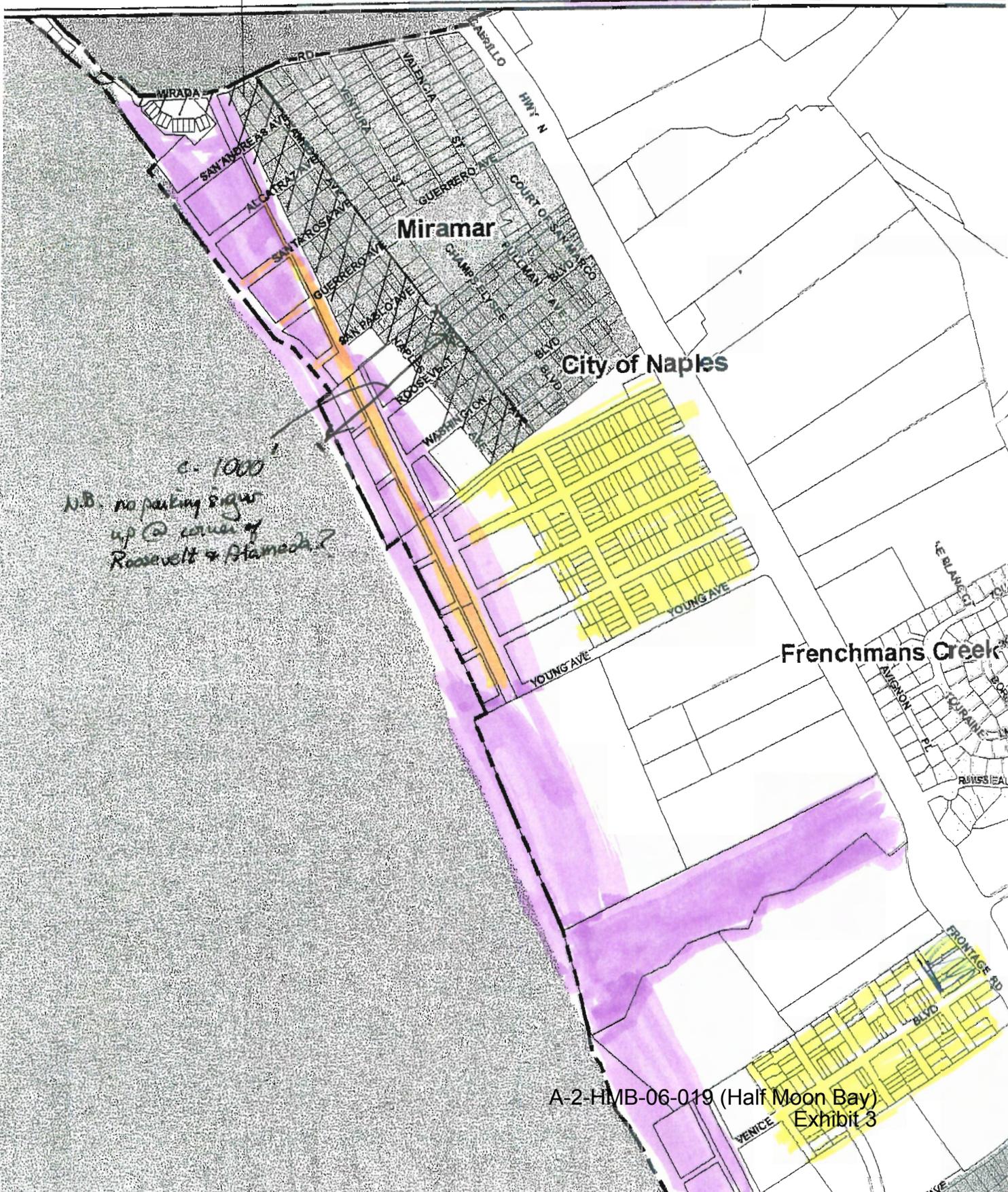
x \_\_\_\_\_ date \_\_\_\_\_

address 400 Keele Ave HMB 94019

Exhibit A: Map of Project Area, Miramar/Naples Neighborhood

PAPER SUBDIVISION + STREETS

STATE PARKS BEACHES



Miramar

City of Naples

Frenchmans Creek

Exhibit B: Map of Project Area, Alsace Lorraine Neighborhood



Shopping Centers

Pilarcitos Park

Alsace Lorraine

Downtown

Arieta Park West

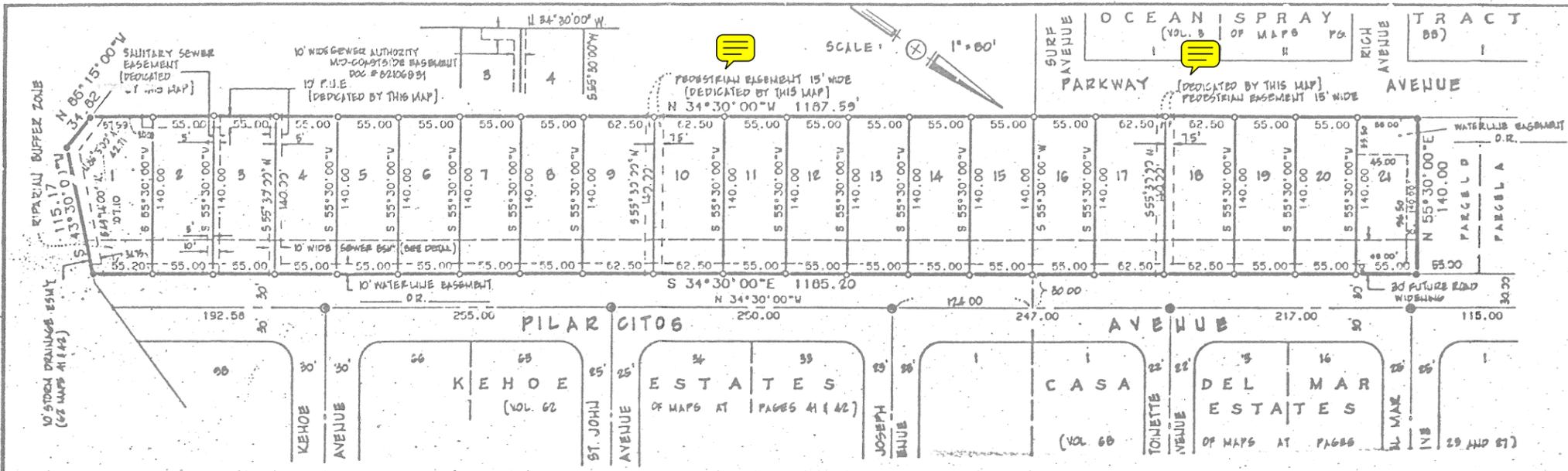
Arieta Park East

no segregated rail, pop. to blurbop

Poplar lot not open overnight

SATURATED WITH RESIDENTIAL PARKING, FAR FROM BEACH/PARK

118/44



**BASIS OF BEARINGS**

THE BEARING NORTH 34°30'00" WEST OF THE CENTERLINE OF PILARCITOS AVENUE AS SHOWN ON MAP OF "KEHOE ESTATES HALF MOON BAY, SAN MATEO COUNTY, CALIFORNIA" FILED IN VOLUME 62 OF MAPS AT PAGE 41 AND 42 SAN MATEO COUNTY RECORDS WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

**SOILS REPORT**

THE SOILS REPORT HAS BEEN PREPARED BY THE FIRM OF TERRACE RCH, INC. DATED AUGUST 17, 1976 AND SIGNED BY HASSAN AMER REGISTERED CIVIL ENGINEER NO. 19,674, STATE OF CALIFORNIA.

**NOTES AND LEGEND**

ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF. THE AREA WITHIN THE DISTINCTIVE BOUNDARY CONTAINS AN AREA OF 3.844 ACRES. LOT 1: CONTAINS AN AREA OF 0.437 SQUARE FEET. LOTS 1-8, 11-16 AND 19-21 CONTAINS AN AREA OF 7,700 SQUARE FEET. LOTS 9, 10, 17 AND 18 CONTAIN AN AREA OF 0,150 SQUARE FEET. INDICATES FOUND SQUARE CITY MONUMENT. INDICATES FOUND 3/4" IRON PIPE, AS NOTED. INDICATES 3/4" IRON PIPE, TO BE SET WITH RCB #13,716. INDICATES DISTINCTIVE PERIMETER BOUNDARY LINE.

**OWNER'S STATEMENT**

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID PROPERTY, AND WE HEREBY CONSENT TO THE MAKING AND RECORDING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE HEREBY DEDICATE TO PUBLIC EASEMENT USE THOSE STRIPS OF LAND SHOWN HEREON AS PEDESTRIAN EASEMENT, SANITARY SEWER EASEMENT AND PUBLIC UTILITY EASEMENT (P.U.E.) AND SANITARY SEWER EASEMENT AND PUBLIC UTILITY EASEMENT BEING DEDICATED SUBJECT TO THE CONDITION THAT ALL FACILITIES BE INSTALLED UNDERGROUND OR FLUSH WITH THE GROUND.

WE ALSO HEREBY RELINQUISH THE RIGHT TO BUILD ANY STRUCTURES WITHIN THE RIPARIAN BUFFER ZONE AS SHOWN ON SAID MAP.

AS OWNER: RIMWOOD CORPORATION, A CALIFORNIA CORPORATION. BY: *William W. Crowell* and *Eleanore H. Crowell*. WILLIAM W. CROWELL and ELEANORE H. CROWELL.

AS BENEFICIARY TO A DEED OF TRUST UNDER DOCUMENT NO. 88028612 DAY AREA BANK, A CALIFORNIA CORPORATION. BY: *William W. Crowell* and *Eleanore H. Crowell*. ITS: *Vice President* ITS:

AS BENEFICIARY TO A DEED OF TRUST UNDER DOCUMENT NO. 88055337 WILLIAM W. CROWELL AND ELEANORE H. CROWELL. BY: *William W. Crowell* and *Eleanore H. Crowell*. WILLIAM W. CROWELL and ELEANORE H. CROWELL.

**OWNER'S ACKNOWLEDGEMENT**

STATE OF CALIF. ) ss. COUNTY OF SAN MATEO )

ON May 31, 1988, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED *William W. Crowell and Eleanore H. Crowell* KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE President AND Secretary OF THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT, AND KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION NAMED WITHIN, AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BY-LAWS, OR BY A RESOLUTION OF ITS BOARD OF DIRECTORS, AS OWNER.

WITNESS MY HAND AND OFFICIAL SEAL. MY COMMISSION EXPIRES: 9/7/88 SIGNATURE: *Deirdre J. Walby* NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

**BENEFICIA**

STATE OF CA

COUNTY OF San Mateo

ON May 31 SAID STATE, PERSONALLY KNOWN TO ME (Vice President) AND KNOWN TO THE PERSONS NAMED WITHIN WITHIN INSTRUMENT DIRECTORS, AND WITNESS MY HAND AND OFFICIAL SEAL. MY COMMISSION EXPIRES: 9/7/88

**BENEFICIA**

STATE OF CA

COUNTY OF San Mateo

ON May 31, 1988, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED *William W. Crowell and Eleanore H. Crowell* PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME, AS BENEFICIARY.

WITNESS MY HAND AND OFFICIAL SEAL. MY COMMISSION EXPIRES: 9/7/88 SIGNATURE: *Deirdre J. Walby* NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

**COUNTY RECORDER'S STATEMENT**

FILE NO. \_\_\_\_\_ FEE \_\_\_\_\_ FILED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1988, AT \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ OF MAPS AT PAGE \_\_\_\_\_ RECORDS OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AT THE REQUEST OF \_\_\_\_\_ WARREN BLOOM, COUNTY RECORDER BY: *Susan Maxwell* DEPUTY

Rec'd and examined by: S. Maxwell Indexed by: S. Maxwell. SUBDIVISION MAP ASSESSMENT MAP LIC. LAND SURVEY MAP PARCEL MAP

REQUEST OF North American Title Ins Co. DATE June 30, 1988 TIME 4:14 PM SERIAL NO. 88083774 FEE \$5.00

TITLE (Sub and/or Tract) St. John Subdivision Unit No. 3 being a resubdivision of lots 99, 100, 101, 102, 103, and 104 Kehoe Estates recorded in Volume 62 of Maps at Pages 41 and 42 and a portion of Parcel E as shown on Map entitled "Casa Del Mar Estates" recorded in Volume 68 of Maps at Pages 25 and 26, San Mateo County Records, City of Half Moon Bay.

VOL NO. 118 (MAPS) PAGE NO. 44 VOL NO. (LIC. LAND SURVEY MAP) PAGE NO. VOL NO. (ASSESSMENT MAP) PAGE NO. VOL NO. (PARCEL MAP) PAGE NO.

**ENGINEER'S STATEMENT**

BY A KANGAS, A REGISTERED CIVIL ENGINEER WITH LAND SURVEY PRIVILEGES IN THE STATE OF CALIFORNIA, STATE THAT THIS FINAL MAP AND SURVEY WERE MADE UNDER MY DIRECTION; SURVEY MADE DURING THE MONTH OF OCTOBER, 1976 IS TRUE AND COMPLETE AS SHOWN; THE MONUMENTS ARE OF A CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR WILL BE IN SUCH POSITIONS ON OR BEFORE APRIL 1988 AND THAT SUCH MONUMENTS ARE SUFFICIENT TO RE-TRACE THE SURVEY TO BE RETRACED.

5/19/88 Stanley A. Kangas, R.C.E. # 1376 REG. EXP. DATE: 3-31-89

**ENGINEER'S STATEMENT**

I STATE THAT I HAVE EXAMINED THE FINAL MAP OF THE ST. JOHN SUBDIVISION UNIT NO. 3, AS SHOWN AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ALL APPROVED ALTERATIONS, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND CAL. ORDINANCE APPLICABLE AT THE TIME OF THE TENTATIVE MAP, HAVE BEEN COMPLIED WITH, I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

5/17/88 William S. Smith, CONSULTING CITY ENGINEER R.C.E. # 10,789 EXP. DATE: 6-30-89 CITY OF HALF MOON BAY

**CITY CLERK'S STATEMENT**

I, RALPHENA GUEST, THE CITY CLERK OF THE CITY OF HALF MOON BAY, SAN MATEO COUNTY, CALIFORNIA, HEREBY STATE THAT THE CITY COUNCIL OF SAID CITY OF HALF MOON BAY, BY A RESOLUTION ADOPTED AT A REGULAR MEETING OF SAID COUNCIL, HELD ON THE 17th DAY OF May 1988, DID DULY APPROVE THE ACCOMPANYING MAP DID DULY APPROVE ALL EASEMENTS UNDER OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS PUBLIC EASEMENT (P.U.E.), PEDESTRIAN EASEMENTS AND SANITARY SEWER EASEMENT AS SHOWN ON SAID MAP WITHIN SAID SUBDIVISION, AS SET FORTH IN THE STATEMENT SHOWN HEREON.

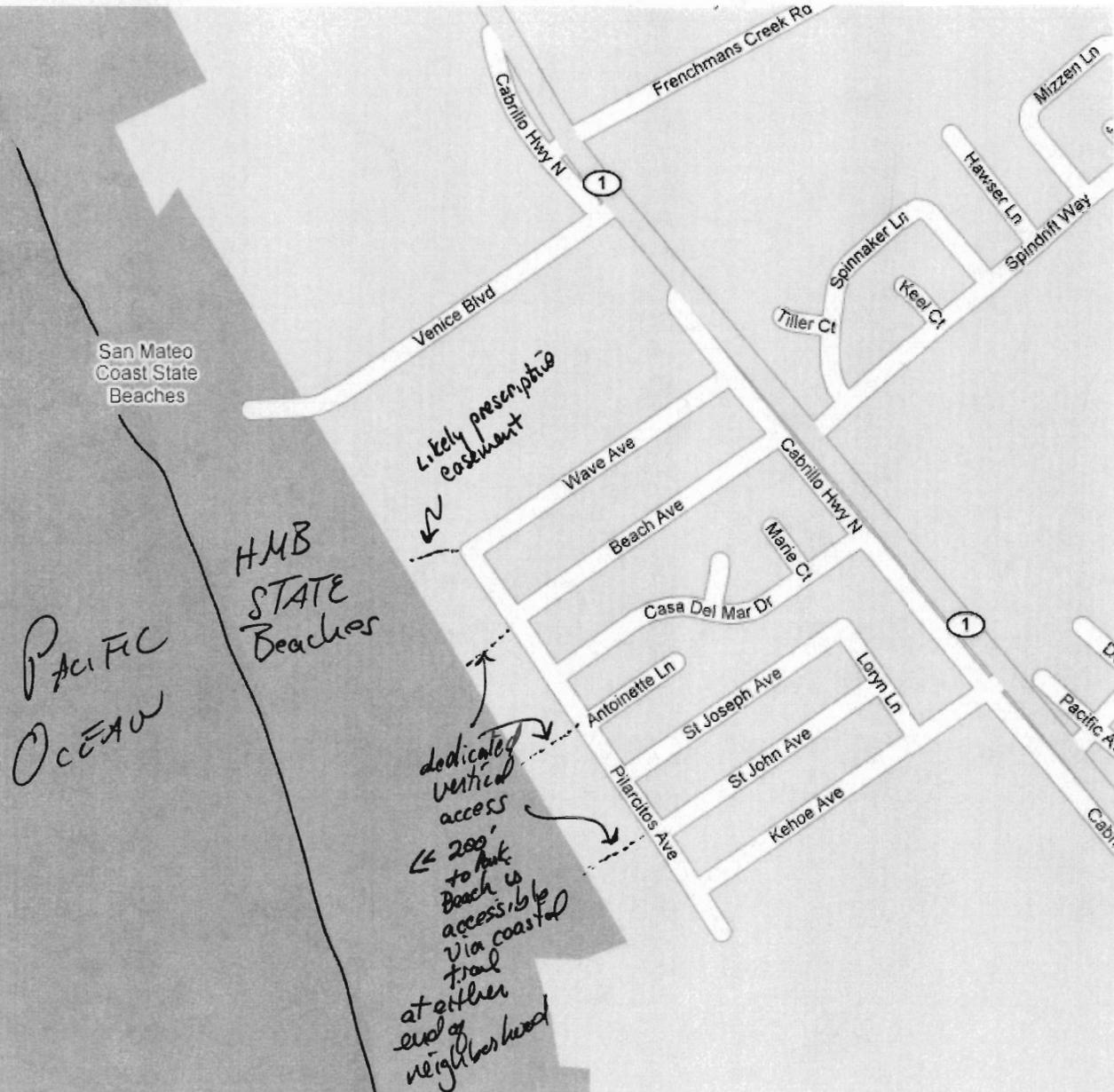
DATED: 6/17/88 Ralphena Guest, CITY CLERK CITY OF HALF MOON BAY SAN MATEO COUNTY, CALIFORNIA

**ST. JOHN SUBDIVISION UNIT NO. 3**

BEING A RESUBDIVISION OF LOTS 99, 100, 101, 102, 103, AND 104, KEHOE ESTATES RECORDED IN VOLUME 62 OF MAPS AT PAGES 41 AND 42 AND A PORTION OF PARCEL E AS SHOWN ON MAP ENTITLED "CASA DEL MAR ESTATES" RECORDED IN VOLUME 68 OF MAPS AT PAGES 25 AND 26, SAN MATEO COUNTY RECORDS. CITY OF HALF MOON BAY \* SAN MATEO COUNTY \* CALIFORNIA \*

SCALE: 1"=60' DATE: MAY 1988

BRIAN • KANGAS • FOULK CONSULTING ENGINEERS 540 Price Avenue, Redwood City, CA 94063 14151 365-0412 (408) 733-8450



A-2-HMB-06-019 (Half Moon Bay) Exhibit 3

Mr. Steve Flint, Planning Director  
City of Half Moon Bay  
501 Main Street  
Half Moon Bay, CA 94019

Subject: Appeal of PDP-02-04 (Nighttime Permit Parking Program)

Dear Steve:

It was a pleasure to meet you at the Half Moon Bay Planning Commission meeting of 24 August 2006, and to participate in the public hearing on the items on the Planning Commission's agenda.

Unfortunately, the concerns I expressed about PDP-02-04 were not resolved by the Planning Commission, so enclosed please find a copy of my appeal of this project. I understand from Sigrid that the City has instituted a \$200 fee that would be applicable to this appeal. 14 Cal. Admin Code Section §13111 and 13573 provides that appellants may address their concerns directly to the California Coastal Commission when the local agency charges a fee for the filing or processing of appeals. Since I have no intention of paying this fee to obtain justice, you may in this case regard my letter as friendly advice that I am sending the attached appeal directly to the California Coastal Commission, to be considered by them once the City has notified them of final local action on this permit.

If my understanding of the fee structure is mistaken and a fee is not applicable, then please consider this my timely appeal of the referenced project to the Half Moon Bay City Council (I have attached a competed appeal form to this letter solely for that reason). I would be grateful for any additional clarification of which appeals are subject to the appeal fee, and which are not.

I also realize that you were not present during the development of this project, and you may be able to contribute to the resolution of this appeal. I would welcome the opportunity to meet with you and the City Attorney to search for a shared position to present to the body that hears the appeal. I look forward to hearing from you.

Sincerely,

James Benjamin  
400 Pilarcitos Avenue  
Half Moon Bay, California 94019

Cc: Adam Lindgren, City Attorney, City of Half Moon Bay  
YinLan Zhang, Coastal Program Analyst, California Coastal Commission

## Introduction

This appeal concerns PDP-02-04, the City of Half Moon Bay's application for a Coastal Development Permit and amendment of the City's Master Traffic Resolution to establish a Nighttime Permit Parking Program in specified blocks of the Miramar/Naples and Alsace Lorraine neighborhoods. PDP-02-04 was approved by the Half Moon Bay Planning Commission on 24 August 2006. After reviewing the entire public record, the appellant strongly believes the project should either be denied or revised to address the following concerns:

1. Approval of the permit would not comply with the policies of the City of Half Moon Bay Local Coastal Program (LCP).

The appellant believes that neither the staff nor the Planning Commission considered compelling evidence in the record that the project does not conform to policies and ordinances concerned with the prohibiting concentration of parking (in this case, overnight parking near the beach) in a single area.

2. Approval of the permit would not comply with the California Environmental Quality Act. Section 13096 of the Coastal Commission's administrative regulations requires approval of CDP applications to be supported by a finding that the application, as modified by any conditions of approval, is consistent with the California Environmental Quality Act (CEQA).

The evidence in the record and bases for appeal (including relevant law, analysis, and issues) follow. The appellant respectfully requests that if the issues raised in this appeal cannot be resolved, then this project should be denied. If the applicant chooses to submit a new project application, they should be encouraged to submit one that conforms to the Half Moon Bay LCP and CEQA.

## Evidence in the Record

The findings attached to the Coastal Development Permit that was approved by the Planning Commission included the following (page 6 of findings)

### 2) Adequacy of Alternative Public Parking

Whereas Section 30212 of the Coastal Act calls for "public access from the nearest public roadway to the shoreline and along the coast...in new development projects," it provides an exception where "adequate access exists nearby."

Section 30212.5 states, "Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area."

The availability and distribution of public parking in City and State beach parking lots is addressed above. At this time, public lots are not available to the general public for nighttime parking, but State lots do provide parking for special users (anglers, surfers, and holders of special events permits) as detailed above.

Alternative nighttime public beach parking is also available on unrestricted streets in both the affected and other coastal neighborhoods within the City, necessitating a walk of up to two additional city blocks in distance to reach the beach.

Exhibits A and B attached to the project findings show the project area. In addition to the project area, the maps show the following paper subdivisions which have not been developed and do provide additional parking: (a) adjacent Balboa Avenue, (b) south of Miramar, and (c) west of Railroad Avenue. The map does not distinguish between existing and paper subdivisions. The maps also showed the existing neighborhood south of Alsace Lorraine and east of Railroad Avenue, but the accompanying document does not discuss the saturated residential overnight parking, nor does it discuss limited coastal access and long distance between this neighborhood and the beach. The maps did not include the portion of Pilarcitos Avenue adjacent to the state beach and west of the neighborhood of Casa del Mar.

During the public hearing of PDP-02-04, the Planning Commission received testimony that the project would expose Pilarcitos Avenue west of Casa del Mar, immediately adjacent to Half Moon Bay State Beach and with several vertical trails providing coastal access, to the hazards deemed by the Planning Commission to be significant enough in other neighborhoods to warrant the parking program that is the subject of PDP-02-04. At the conclusion of the public hearing, one planning commissioner confirmed these circumstances and acknowledged that the concern was legitimate, but staff did not respond to the public's or the commissioner's concern, and no conditions or mitigations addressing this concern were proposed or incorporated into the approved project.

The Planning Commission also received testimony that the project would expose neighborhood streets east of the project area to these hazards. Staff responded that the visitors whose behavior constitutes the hazards that justify this CDP are lazy, and that rather parking more than two blocks from the beach, these visitors will leave the neighborhood in search of parking closer to the beach.

Members of the public suggested that by opening the state park and Poplar parking lots, adequate parking for overnight visitors could be provided without creating the conflict between residents and visitors that motivates PDP-02-04. Staff responded that the state beach officials had indicated that they would be willing to open the lot if the City of Half Moon Bay took responsibility for policing it.

A member of the public with property on Kelly Avenue held out the possibility of providing overnight parking on their property. This offer was not discussed during planning commission deliberations.

## **Basis of Appeal.**

### ***Inconsistency of Project with Local Coastal Program***

#### **Relevant Law**

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

Half Moon Bay's Local Coastal Program – Land Use Plan explicitly adopts the following Coastal Act policies:

30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

30212.5. Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area. [emphasis added]

## Analysis

An earlier version of this project included a condition that the project area could be expanded if problems associated with overnight parking migrated to neighborhoods outside of the project area. The earlier version also required cars parked on public streets in the project area to display parking permits for a larger portion of the evening and night. In response to Coastal Commission staff and others' concerns that such a project might provide substantive grounds for appealing the project to the Coastal Commission for inconsistency with §30211, the applicant dropped the condition permitting possible expansion. The Planning Commission further amended the conditions to reduce the hours during which a parking permit was required in order to park in the project area.

Evidence in the record shows that overnight parking adjacent to the beach with vertical trails for visitors, but which does not require a parking permit has been concentrated on a short expanse of single street (Pilarcitos Avenue, to the west of the Casa del Mar neighborhood). Residents of this street whose concerns were once calmed by the now-removed expansion provision are understandably concerned by the staff observation that lazy, hazard-inducing visitors will seek parking on streets adjacent to the beach and with vertical access, exactly the conditions on this street. The staff report does not explain why concentration of such visitors on Pilarcitos Avenue in the neighborhood of Casa del Mar is feasible and appropriate. Since this neighborhood has no more commercial or visitor-servicing facilities than the neighborhoods in the project area, it is unlikely that any explanation for such a concentration can be given.

If staff were to reconsider their claim that these troublesome visitors will only park on streets adjacent to the beach, then the impact of the project on communities adjacent to the project area was incorrectly characterized as not significant in response to Planning Commission and public questions, and the impact is not acknowledged, discussed or mitigated in the CEQA documents that accompany the approved project.

In its only reference to §30212.5, the planning department staff report states

Alternative nighttime public beach parking is also available on unrestricted streets in both the affected and other coastal neighborhoods within the City, necessitating a walk of up to two additional city blocks in distance to reach the beach. [Emphasis added]

Using the artfully-worded fig leaf “up to two additional city blocks” rather than “at least two additional city blocks” the statement may be true, but does not address consistency with §30212.5. Although parking further from the beach is available in many neighborhoods, the nighttime beach parking close to the beach and with vertical trails for access that attracts the hazardous behavior is *not* available anywhere else in the City, except at Pilarcitos Avenue. There is no acknowledgement, discussion or mitigation of the impact of concentrating misbehaving visitors on the short extent of a single street adjacent to the beach. The implied conclusion that the project is consistent with §30212.5 is not supported by any evidence.

The burden for providing such evidence rests with the applicant, not with an appellant (even though above *contradicting* evidence was provided to the Planning Commission). In the absence of such supporting evidence, a finding that the project conforms to Half Moon Bay LCP Chapter 2 policy and Coastal Act §30212.5 cannot be made.

## Issues

When these concerns were made part of the public record, the applicant or the Planning Commission were free to amend the project with additional conditions to make the project consistent with LCP and Coastal Act §30212.5 by expanding the project area to include Pilarcitos Avenue west of Casa del Mar and portions of the perpendicular street that intersects Pilarcitos Avenue in this neighborhood. The appellant respectfully requests that the project be modified to be consistent with LCP policy and Coastal Act §30212.5 by including such public streets in the project area. Failing that, the appellant respectfully requests that the project be denied.

## ***Inadequacy of CEQA documents***

### **Relevant Law**

CEQA §21080(c)(2) permits the use of use a mitigated negative declaration when an initial study identifies potentially significant effect on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant *before* the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where *clearly* no significant effect on the environment would occur, and (B) there is no substantial *evidence in light of the whole record before the public agency* that the project, as revised, may have a significant effect on the environment. [Emphasis added] .

CEQA §21080(d) mandates that *if there is substantial evidence* in light of the whole record before the lead agency that the project may have a significant effect on the environment, an environmental impact report shall be prepared. [Emphasis added]

CEQA §21080(e) defines “substantial evidence” to include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

CEQA §21080.5(d)(2)(A) prohibits approval of a proposed development if there are feasible alternatives or mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment.

The original determination whether to prepare either a Negative Declaration or an EIR is subject to the "fair argument" test (*Laurel Heights Improvement Assoc. v. U.C. Regents* (1993) 47 Cal.3d 376). In other words, when a fair argument can be raised on the basis of substantial evidence in the record that the project may have a significant adverse environmental impact -- *even if evidence also exists to the contrary* -- then an EIR is required. [Emphasis added]

Simply filling out an initial study checklist without citing supporting information is insufficient to show the absence of significant effects (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296).

CEQA guidelines 15042 provides public agencies the authority to disapprove projects to avoid significant impacts that would occur if a project were approved as proposed.

CEQA guidelines 15126.6 provides that feasible project alternatives must be evaluated.

### **Analysis**

Substantial evidence (let alone a fair argument) was presented during the Planning Commission’s hearing that the project would concentrate overnight public parking adjacent to state beach land on Pilarcitos Avenue west of the Casa del Mar neighborhood, which would result in a significant increase in nighttime traffic parking on the referenced street (not acknowledged in CEQA checklist page 19, item XV(a)). By not opening the Poplar parking lot or state beach lots, it potentially results in inadequate overnight parking during peak use periods (not acknowledged in CEQA checklist page 21 item XVII(c)). It would also violate §30212.5 of the California Coastal Act which is explicitly adopted as part of Half Moon Bay’s Local

Coastal Program (not acknowledged in CEQA checklist page 13, item IX(b)). Finally, the discussion of mandatory findings of significance (pages 21 and 22, item XVII(b)) suggests that the program could be expanded to mitigate impacts in other areas. In fact, staff *deleted* project conditions that allowed expansion in the event of migrating adverse impacts, in response to California Coastal Commission staff comments that unconstrained expansion could be inconsistent with LCP Chapter 2 policy and Coastal Act §30211.

CEQA requires that mitigations be real. Because such expansion would require an amendment to the coastal development permit, let alone one that is unlikely to survive scrutiny at the coastal commission, the expansion cannot be cited as mitigation for the current project.

CEQA and associated regulations provide the option of a mitigated negative declaration as an incentive to motivate project applicants to present projects that have been designed so carefully that no fair argument would exist that could challenge the finding that the project has no significant unmitigated impacts. The law *requires* that a complete study be undertaken if fair arguments are raised that the initial study and mitigated negative declaration are not complete. The above evidence shows that (a) staff asserted that hazard-creating visitors will move to streets adjacent to the beach with good coastal access; (b) the inclusion without discussion of maps showing neighborhoods with saturated overnight street parking and paper subdivisions that don't have vesting tentative maps, let alone street parking, suggests that staff and the Planning Commission apparently believed that the fictitious beach front parking associated with these neighborhoods was available; and (c) consequently the CEQA document could not adequately acknowledge, discuss or mitigate the significant impact that the project would have on the referenced portion of Pilarcitos Avenue. Increasing the density of visitors whose behavior causes a hazard in the project area by forcing them to seek parking near the beach with vertical access in another neighborhood creates a significant unmitigated impact in the neighborhood of Pilarcitos Avenue. This significant impact is not acknowledged, discussed or mitigated.

Alternative nighttime public beach parking might also have been provided at the end of Poplar or at Half Moon Bay State Beach. The facts that (1) these areas are compact enough for efficient policing (compared to the status quo) and (2) such parking minimize the conflicts between visitors and residents were not addressed in discussion of alternatives; the report did not compare the effects of such alternative near-beach overnight parking outside neighborhoods to the proposed parking on a single neighborhood street. The CEQA documents do not provide a thorough analysis of this alternative. Additional discussion of this alternative is warranted, and if it is the alternative with the least environmental impact, then parking at the end of Poplar and/or the state beach should be adopted as the mitigation for a revised project that treats all beach-adjacent neighborhoods fairly.

## Issues

Once these concerns were made part of the public record, the applicant and Planning Commission were free to conclude that an EIR was required, or to withdraw the project and submit a new project with new documents as part of a new process that would satisfy the requirements of CEQA mitigated negative declaration. Rather than pursuing either of these alternatives, the applicant chose to pursue approval of an incompletely and inadequately revised initial study and mitigated negative declaration, notwithstanding the fair arguments that are part of the record. The appellant asserts that applicant has not shown the proposed project to be consistent with the stated sections of CEQA, and with corresponding components of the CEQA-equivalent processes that governs the processing of coastal development permits under the Coastal Act. The appellant respectfully requests that the project and its CEQA documentation be modified to address these significant unmitigated impacts by requiring the applicant (a) to include Pilarcitos Avenue and incident streets in Casa del Mar in the project area, along with and any other neighborhood that is similarly situated (i.e., adjacent to the beach and with vertical trails providing coastal access) that has escaped the appellant's attention; and (b) to follow required CEQA processes for making such changes. Failing that, the appellant respectfully requests that project be denied.

## Conclusion

The appellant acknowledges the City's authority to pursue a Nighttime Parking Program, and gives the City the benefit of the doubt that the City could craft such a program to be consistent with §30211. But projects must be consistent with *all* LCP policies, and PDP-02-04 as approved by the Half Moon Bay Planning Commission fails to be consistent with LCP and Coastal Act §30212.5.

Moreover, the vehicle chosen by the City to demonstrate CEQA compliance, a mitigated negative declaration, is incompatible with the history of this project. The City as applicant has a responsibility to its citizens to set an example for environmental review that can be proudly expected of private applicants. It has to walk the walk.

Many thanks for your patient review and consideration of this appeal.



## CITY OF HALF MOON BAY

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

October 6, 2006

Mr. James Benjamin  
400 Pilarcitos Avenue  
Half Moon Bay, CA 94019

Subject: Appeal Form: PDP -02 - 04

Dear Jimmy:

I am writing in regard to your letter attached to an appeal form pertaining to the City's Night Time Parking Permit Program. In your letter you questioned the applicability of the City's fee structure to appeals within the coastal appeal zone, stating that if a fee is not applicable, then the City should consider the appeal to which your letter was attached.

At the October 3, 2006 meeting, the City Council considered the applicability of the fee structure to an appeal related to a different project and determined that the current fee schedule does require the submittal of \$200 for appeal of all discretionary planning decisions. At that time, the City Attorney verified that the current schedule of fees and services has no line item for appellants to pay 'no fees' for any type of appeals to the City. A copy of Resolution No. C - 70 - 00, passed and adopted on October 17, 2000, amending the Master Fee Schedule for Certain Fees, is enclosed for your reference.

As you know, the Planning Commission voted to adopt the negative declaration for the project on September 28, 2006, thus approving the Night Time Parking Permit Program on that date. The ten working day appeal period extends until October 12, 2006.

Your letter states that you do not intend to pay the fee and therefore the City should consider your appeal as advisory. Please consider this letter as an acknowledgement of your position on the matter and as a response to your request for clarification as to which appeals are subject to the appeal fee and which are not.

Mr. James Benjamin  
400 Pilarcitos Avenue  
October 6, 2003  
Page 2 of 2

If you should have any questions or need any additional information, please contact me at (650) 726-8252 or by e-mail at [stevef@hmbcity.com](mailto:stevef@hmbcity.com).

Sincerely,  
CITY OF HALF MOON BAY

A handwritten signature in black ink, appearing to read "S. Flint", enclosed within a hand-drawn oval.

Steve Flint, Interim Planning Director

cc: Adam Lindgren, City Attorney  
Paul T. Nagengast, Deputy City Manager  
project file

RESOLUTION NO. C-70 -00

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY  
AMENDING THE MASTER FEE SCHEDULE FOR CERTAIN FEES**

WHEREAS, the Master Fee Schedule, containing all fees charged by the City of Half Moon Bay, was prepared in compliance to Government Code Sections 66000-66018 (AB 1600): and

WHEREAS, in pursuing the City's policy to recover costs reasonable born for services provided, from the user of these services: and

WHEREAS, in pursuing the City's policy to have all new development covers their proportionate share of infrastructure impacts.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Half Moon Bay, does hereby resolve as follows:

The City Council adopts the amended Master Fee Schedule included as Exhibit "A" which supersedes only those fees that were adopted on March 21, 2000 by resolution C-14-00, amended on June 6, 2000 by resolution C-40-00, and which require adjustment to specified Planning fees as follows:

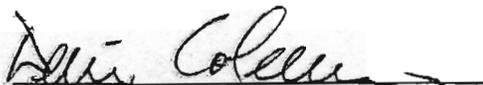
- Fees for appeal of all discretionary planning decisions is \$200 for each occurrence.
- Planning Director determination of exemption from Coastal Development Permit requirements: \$100
- Amendments / time extensions: fee for amendments is 1/2 of the original planning processing fee for amendments not triggering re-circulation of the environmental document. All other amendments are charged the same as the original processing fee.

PASSED and ADOPTED by the City Council of the City of Half Moon Bay at its meeting thereof held on the seventeenth day of October 2000 by the following vote:

AYES:	Councilmembers:	Donovan, Patridge, Ruddock, Taylor & Mayor
NOES:	Councilmembers:	Coleman
ABSENT:	Councilmembers:	
ABSTAIN:	Councilmembers:	

Attest:

  
 Dorothy R. Robbins  
 City Clerk

  
 Dennis Coleman  
 Mayor

PASSED AND ADOPTED AT THE  
 COUNCIL MEETING OF  
10-17-00  
DR.  
 CITY CLERK

10/09/00

A-2-HMB-06-019 (Half Moon Bay)  
 Finance:costrecry:Resolutions#21500  
 Exhibit 3

EXHIBIT 3

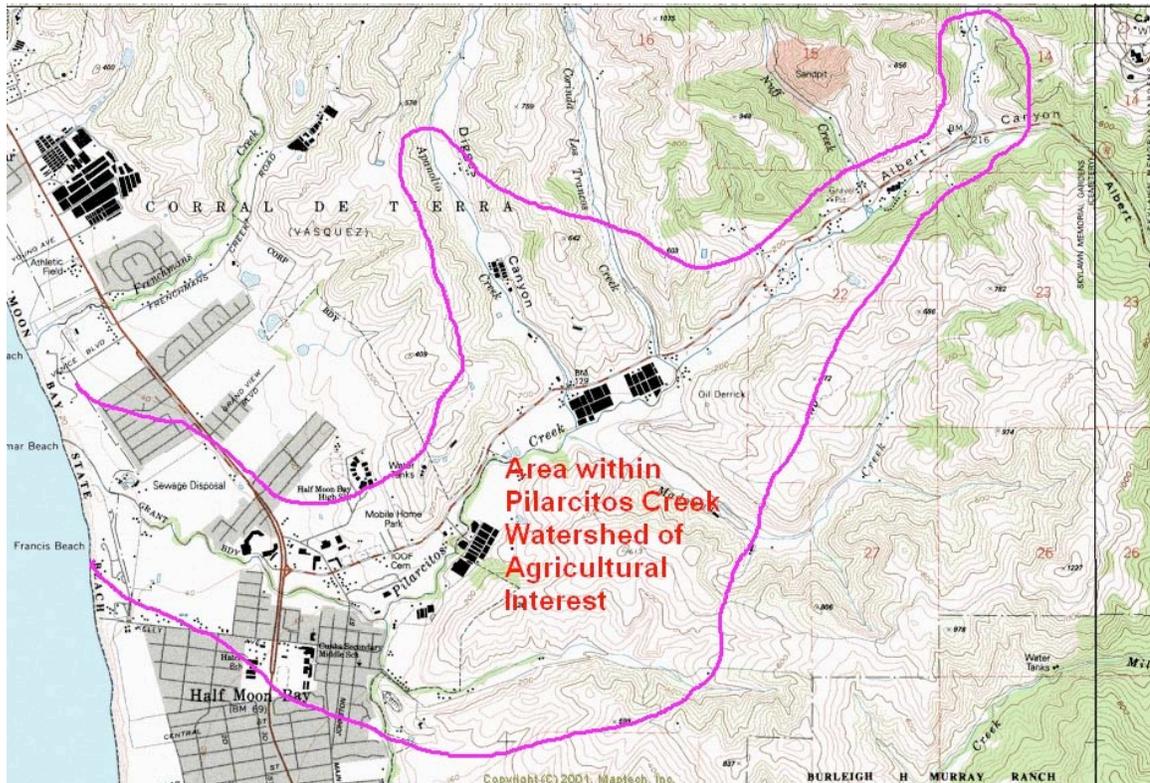
**Master Fee Schedule  
Permits, Other Fees & Services**

Description of Services	Fee	Unit
<b>VI. Planning</b>		
3 Miscellaneous Fees		
7 Appeals		
Initial Deposit	1/2 of all applicable permit fees	Per Appeal
Fee to equal	To recover all direct labor, contractor costs, and administrative overhead	Per Occurance
Fee	\$200.00	
10 Amendments / Time Extension	Same as Original Processing Fee	
Not requiring recirculation of the		
Environmental Document	1/2 of Original Processing Fee	
All others	Same as Original Processing Fee	
7 Coastal Development Permits		
6 Determination of Exemption	\$100.00	Per Application

# Pilarcitos Creek Watershed Working Group San Mateo County

## Annual Watershed Report

January 1, 2005 – December 31, 2005



Watershed-Level Summary Statistics	
Name of Watershed	Pilarcitos Creek
Square miles of land the watershed drains	29.8
Total acreage of watershed	19,063
Total agricultural acreage in watershed	1333
Rangeland acres	800
Row crop acres	533
Percent watershed land use in ag production	7%
Number of ag operations in watershed	15
Number of ag operations in Program	13
<b>Percent participation (by operation)</b>	<b>86%</b>
Acres of ag in program	
<b>Percent participation (by acreage)</b>	
# of operations through short course	7
# of operations with completed farm plan	7

Note; Source of watershed acreage is UC Ag Extension Service report dated Jan 1956. Agricultural acreage shown is based on an estimate of this year's production.

### **Location of Watershed:**

The Pilarcitos Creek Watershed is located in the central portion of coastal San Mateo County approximately 20 miles south of San Francisco. The watershed is comprised of Pilarcitos Creek and its associated tributaries which include Aponolio Creek, Corinda Los Trancos Creek, Nuff Creek, Madonna Creek, Arroyo Leon Creek and Mill Creek. The Pilarcitos Creek empties into the Pacific Ocean at Francis State Beach (part of the Monterey Bay National Marine Sanctuary). The City of Half Moon Bay is located in the lower reaches of the watershed.

The Pilarcitos Creek Watershed is a part of the USGS Cataloging Unit Basin Name; San Francisco Coastal South. The Hydrologic Unit Name is Pilarcitos Creek. Its Calwater Unit number is 202.320. This watershed is a part of Region 2 of the California Regional Water Quality Control Board.

### **Description of Watershed:**

The Pilarcitos Creek watershed includes approximately 28 square miles of land. Elevations rise from sea level at the mouth to 1500 feet at the headwaters. The natural plants community types found in the watershed range from coastal strand vegetation near the Pacific Ocean, to redwood forest in the upper watershed. Most of the upland areas of the watershed area are a mosaic of grassland, chaparral, oak woodland and coniferous forest typical of the western slope of the Coast Range. The riparian forest is a mix of alders and a variety of willow species. The watershed is characterized by steep slopes and canyons in the upper reaches and near level bottomlands. Lands adjacent to the lower reaches have historically been used for agriculture. In recent history, much of the agricultural land in the lower watershed has been converted to urban uses.

The Pilarcitos Creek watershed provides essential habitat for a diverse population of wildlife, including rare, threatened and endangered species such as the red-legged frog, the San Francisco garter snake, snowy plover, the tidewater goby, and the steelhead trout.

The watershed is currently not listed as impaired under Sections 303(D) for impaired water bodies. However, it has been characterized as "Threatened" for impairment by the Regional Water Quality Control Board. Sediment is the noted source of possible impairment. Additionally, because of human health concerns at the State Beach (mouth of the creek), e coli bacteria has also been recognized as a contaminant in some reaches of the creek.

Precipitation within the watershed areas range from approximately twenty-six inches annually on the coast to 42 inches in the upper reaches. Approximately eighty percent of the total precipitation occurs between November and March.

Ownership of land includes a mosaic of publicly owned land (California State Parks) and privately owned property.

The upper reaches of Pilarcitos Creek are owned by San Francisco PUC / Water Co. which impounds the creek and diverts the entire flow through a tunnel to the eastern side of the Coast Range into Crystal Springs Reservoir where it is utilized as a domestic drinking water supply source. The effect of this diversion is an impaired natural flow hydrograph in the Pilarcitos Creek.

Principal land uses include recreational open space (State Parks), rural homes and subdivisions, urban areas (City of Half Moon Bay), privately owned open space tracts (Peninsula Open Space Trust), State Game and Watershed Reserve (owned by San Francisco Water Co) and agriculture. The primary sanitary landfill operated in San Mateo County occupies a major portion of the Corinda Los Trancos tributary.

Agricultural uses include irrigated row crops (vegetables, field flowers), non irrigated crops (Christmas Trees, peas, beans, grains), rangeland grazing and floriculture (cut flower green-house and shade-house operations).

The main stem of Pilarcitos Creek flows parallel to the Highway 92, the main transportation corridor over the Coast Mountains to the Half Moon Bay area. The major tributary, Arroyo Leon, lies parallel to the County maintained Higgins Canyon Road. The creek is impacted by storm runoff from the State maintained highway and urban residential storm runoff directed into the creek.

## **Watershed Working Group**

The Pilarcitos Creek Watershed Working Group (WWG) was established in April of 2001. At that time, By-Laws were created and adopted, a Mission Statement was agreed upon and officers (chairman and vice-chairman) were selected.

Meetings are held at the Farm Bureau Building in Half Moon Bay. Dates and times are announced by notice mailed to all cooperators and all growers in the watershed.

At the invitation of the watershed group, representatives of local, state and federal agencies attend meetings. Representatives from the National Marine Fishery and San Mateo County Environmental Health Dept. have been present at working group meetings discussion projects and issues of common interest.

At this time, a total of 7 cooperators have signed "Notice of Intent" to participate with the working group. This total includes agricultural landowners, managers and operators. The diversity of crops and cropping systems represented in this watershed are also present in the group of cooperators. Field vegetables, field flowers, pumpkins, cut flower green house and shade house operations are represented.

The manager of the county landfill which is located in the watershed is invited to participate with the working group and is an active member.

There are approximately 8 growers who have not yet signed "Notice of Intents" but who attend meetings.

In June of 2001, the UC Cooperative Extension Agricultural Water Quality Short Course was offered in Half Moon Bay. At that time 7 farming operations represented in the working group participated. Farm Self Assessments have been prepared by those participants and Farm Plans are completed or are under way.

## **Watershed Projects:**

1. The WWG is currently working in cooperation National Marine Fisheries Service, the San Francisco Water Dept. and the Coastside County Water District seeking ways to increase summer flows in the Pilarcitos Creek. To that end, the WWG has taken a strong stand encouraging the agencies involved with sewer treatment on the coast to look into tertiary treatment of the sewer effluent.
2. EQIP contracts with several of the WWG members
3. One of the conventional growers participated with the Nutrient and Irrigation portions of the "Ag Mobile Lab" grant which conducts field work with the growers regarding irrigation efficiency and nutrient management and tracking throughout the growing season.
4. The Pilarcitos Creek WWG is represented on and is an active member of the Pilarcitos Creek Advisory Committee, a local citizen's stakeholder group which meets monthly to advocate for "restoration projects" within the watershed.
5. The WWG is actively participating with San Mateo Co. Dept. of Environmental Health with an effort to monitor and remediate sources of e coli contamination in the watershed.
6. Cover Crop Demonstration Projects
  - a. Three projects (multiple sites) –sponsored thru the FB
7. Grassed Waterway Project
  - a. A constructed Grassed Waterway project built in conjunction with NRCS input was selected as a Demonstration Project for this practice, in this watershed.
8. Base line water quality monitoring conducted approximately monthly in conjunction with NRCS

## **Conservation Practices currently in use:**

1. Cover crops are utilized (weather permitting).
2. Green house operations utilize drip irrigation and tail water recycling to reduce runoff and conserve water
3. Riparian corridors are left intact
4. Interior dirt farm access roads are planted with perennial grasses and mowed to provide winter access and in field filter strips.
5. Raptor perches have been installed as a demonstration project
6. Grassed Waterways

All of the cooperators are regularly inspected by the County Ag Commissioner's office for proper storage and application of chemical products (pesticides or herbicides).

**Summary of Annual Goals which had been set in 2005 and activities accomplished during 2005 to achieve those goals:**

- Continue outreach to cooperators who have not yet signed “Notice of Intent”
  1. *Ongoing*
- Continue to participate in Continuing Education opportunities
  1. *This WWG continues to actively participate in workshops and field days. Attendance by WWG members included Cover Crop Workshops, Nutrient Management Workshops, and continuing education workshops provided by the Ag Commissioner. Additionally, this WWG has participated in educational activities related to use of reclaimed water (tertiary treatment) with local, state and federal agencies.*
- Seek funding to assist in the implementation of beneficial conservation practices
  - a. Status;
    - i. Members of this WWG now have contracts with the NRCS re; EQIP.
    - ii. Grant participation which helps with the costs associated with conservation practices; Cover Crop Program and Mobile Lab Program
- Encourage cooperators who have not yet attended the UC Cooperative Extension Short Course to do so when it is offered this year
  1. *Due to scheduling challenges, the Short Course which was scheduled for Half Moon Bay during year 2005, was not offered by UC Coop Ext. It has been rescheduled for June 2005*
- Encourage cooperators to complete their Farm Plans
  1. *Ongoing*
- Continue to participate with the Pilarcitos Creek Advisory Committee
  1. *The PCAC continues to be a multi stake holder advisory committee in this watershed, advocating for and recommending restoration activities. The agricultural community is represented on this committee by the Farm Bureau and by the participation of the Chairman of the Pilarcitos WWG.*
- Continue the monthly Base Line Water Quality Monitoring
  1. *Farm Bureau and the NRCS continue their monthly base line surface water monitoring activities Pilarcitos Creek. Parameters include Temperature, pH, Conductivity, Nitrates, Orthophosphates, Ammonia, Turbidity and Dissolved Oxygen.*
- Continue to develop strategies for alternative water supplies
  1. *Co Sponsor and participated in the Half Moon Bay Water Summit held in conjunction with multiple agencies and stakeholders to look at ways to achieve enhanced water quality, alternative water supplies for all beneficial users including irrigated agriculture.*
  2. *Sponsored a City Ballot initiative which promoted a recycled water project. The initiative won the endorsement of 85% of the voters in the Nov ballot.*

**Watershed-Specific Challenges**

- Pilarcitos Creek has not been included in the 303D listing, but it has been noted as a watershed to “watch” for impairments (sediment and coliform). No change in status has been recommended by the Regional Board at this time.
- Conversion of agricultural lands to other land uses is a challenge for the WWG.
- Drainage public roadway and urban storm water onto agricultural lands and into the creek
- Water supply for irrigation will continue to be a big challenge. Participation in water conservation practices, investigation into recycled water and use of tertiary treated water will offer challenges and opportunities.
- **High persistence of e coli bacteria in the lower watershed**
- Invasive plant species
- Follow up on the recently completed coliform studies will be a continuing challenge for this watershed.

**Water Quality Data Report (summary)**

- Farm Bureau and the NRCS continue their monthly base line surface water monitoring activities Pilarcitos Creek. Two monitoring sites were established to create a “base line” approach to water quality. Parameters include Temperature, pH, Conductivity, Nitrates, Orthophosphates, Ammonia, Turbidity and Dissolved Oxygen.

the “Appeal from Coastal Permit Decision of Local Government” form for the North Central Coast District, along with the referenced correspondence.

In addition to concerns about the project’s consistency with Coastal Act §30212.5, our appeal also raises issues of consistency with §30252.6, 30240, 30230 and 30231, all of which are also adopted as policies in the Half Moon Bay Local Coastal Program. We would gladly answer any questions not clarified by our attachment.

As we indicated in our letter to Mr. Flint, we are open to finding a mutually agreeable resolution that would permit us to withdraw our appeal. Failing that, we hope that your staff’s analysis will help us persuade the Coastal Commission to uphold our appeal and approve this project if and only if it is modified to conform to our Local Coastal Program.

Sincerely,

James Benjamin  
400 Pilarcitos Avenue  
Half Moon Bay, California 94019

Sofia Freer  
984 Pilarcitos Avenue  
Half Moon Bay, California 94019

Attachments:

CCC North Coast Central District Appeal Form and Appeal of PDP-02-04  
Statements in support of this appeal from:

Zoya D. Benjamin	400 Pilarcitos Avenue
Kim and Diana Baughman	428 Pilarcitos Avenue
Lou and Sally Sheward	456 Pilarcitos Avenue
Dr. John and Irva Neff	484 Pilarcitos Avenue
Sheri Wagener & Mike Peck	568 Pilarcitos Avenue
Mike Marloan	680 Pilarcitos Avenue
Pam and Lyle Bissell	736 Pilarcitos Avenue
Dr. Juli Barr and Allison Akana	792 Pilarcitos Avenue
Chris and Nan Orman	820 Pilarcitos Avenue
Steven Freer	984 Pilarcitos Avenue
Ed and Barb Lambing	1000 Pilarcitos Avenue
Fred and Barbara Lambert	1100 Pilarcitos Avenue
Dave and Valerie Powell	1200 Pilarcitos Avenue
Jim and Judy Shoolery	1300 Pilarcitos Avenue
Bill Borba and Michelle Provencio	1400 Pilarcitos Avenue
Leslie Harrop	400 Kehoe Avenue

Attachment 1 from August 24, 2006 staff report to Planning Commission on PDP-02-04

(also pp 24 and 25 of Attachment 12, approved Initial Study and Negative Declaration)

Exhibit A: Map of Project Area Miramar/Naples Neighborhood

Exhibit B: Map of Project Area , Alsace Lorraine Neighborhood

(highlighted to show paper subdivisions in yellow, state beach in purple, and location of Poplar lot)

Map of St. John Subdivision Unit No. 3, San Mateo County Book of Maps Volume 118, page 44

Google map of Casa del Mar annotated to show vertical access from Pilarcitos Avenue

Letter exchange between Planning Director Steve Flint and James Benjamin

Pilarcitos Creek Annual Watershed Report, January 1, 2005 – December 31, 2005

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

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

\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date  
: 31 October 2006  
\_\_\_\_\_

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

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_ not applicable  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date  
: not applicable  
\_\_\_\_\_