

CALIFORNIA COASTAL COMMISSION

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Th6a



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APPEAL STAFF REPORT

SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal number A-2-SMC-05-016

Applicants David & Holly Brinton

Appellants Commissioners Meg Caldwell & Sara Wan

Local government San Mateo County

Local decision Zoning Hearing Officer approved PLN2002-00533 with conditions on 1/6/05; Applicant appealed approval (specifically one condition) to Planning Commission on 1/24/05; Applicant dropped appeal to Planning Commission on 10/31/05.

Project location 3260 Cabrillo Highway, Miramar, Unincorporated San Mateo County (APN 048-042-260)

Project description Subdivision of a 32,694 sq. ft. residentially-developed parcel into three residential parcels: 1) an approximately 5,788 square foot parcel; 2) an approximately 5,850 square foot parcel, and; 3) an approximately 21,056 square foot parcel.

File documents San Mateo County Certified Local Coastal Program; San Mateo County Permit PLN2002-00533 including Initial Study and Mitigated Negative Declaration; Local Administrative Record; Evaluation Report on *Pinus Radiata* (Monterey Pine) (Paul Maguire, May 2004); Visual Analysis (Cannon Associates, January 2002 and October 2002); Visual Mitigation Plan (SB Planning, June 2005); Biotic Assessment Report (Thomas Reid Associates, October 2002); San Mateo County Countywide Transportation Plan Alternatives Report (CCAG 1997); San Mateo County Congestion Management Plan (CCAG 2003); Coastside Subregional Planning Project (ABAG 1999); Supplemental Traffic Study, Foothill Boulevard Access Alternatives (CCS Planning & Engineering, December 1998)

Staff recommendation ...Substantial Issue; Denial

Summary: San Mateo County approved a subdivision of a 32,694 sq. ft. parcel into three residential parcels consisting of an approximately 5,788 square foot parcel, an approximately 5,850 square foot parcel, and an approximately 21,056 square foot parcel. The existing 32,694 square foot parcel is located adjacent to Arroyo de en Medio Creek and contains a single-family dwelling and a detached garage. Staff recommends that the Commission first determine that **a substantial issue** exists with respect to the grounds on which the appeal has been filed and then deny the proposed application because the proposed project is inconsistent with provisions of the San Mateo County certified Local



California Coastal Commission
March 2006 Meeting in Monterey

Staff: S. Craig Approved by:

Coastal Program (LCP) pertaining to: 1) grading and landform alteration; 2) sensitive habitats, and; 3) cumulative traffic impacts with resultant impacts to public access and recreation along this portion of the San Mateo County coastline.

The inconsistencies of the proposed subdivision with the landform alteration and sensitive habitats policies of the LCP could be addressed by the imposition of special conditions on the project. Specifically, inconsistencies regarding grading and landform alteration could be addressed by the inclusion of a special condition to require that any future residential construction on the two newly created undeveloped parcels would be bi-level to avoid substantial fill of the lower terrace that would otherwise be necessary to create level building pads. Additionally, the proposed subdivision could be conditioned to require an additional setback requirement from Arroyo de en Medio Creek, imposition of an open space deed restriction over the setback areas, and other conditions to protect sensitive habitat and provide conformance with the certified LCP's sensitive habitats policies. **For the following reasons, however, it is unlikely that mitigation can be provided to adequately reduce the project's significant adverse cumulative impacts to traffic and the public's ability to access the coast:**

- The existing extreme traffic congestion on Highways 1 and 92, which operate at a level of service F during peak commute and recreation periods, significantly interferes with the public's ability to access the Mid-Coast's public beaches and other visitor serving coastal resources;
- The most recent Countywide Transportation Plan predicts far greater congestion on the Highway 1 and Highway 92 corridors by 2010, even with planned highway improvements;
- There continues to be a significant imbalance between housing supply and jobs throughout the Mid-Coast region of San Mateo County, with a shortage of jobs along the coast that forces residents to commute over Highways 1 and 92 to inland jobs;
- There are more than three thousand existing undeveloped parcels in the unincorporated Mid-Coast region (and additional undeveloped parcels in the City of Half Moon Bay), each of which could be developed with a future residential use, further compounding traffic congestion;
- The parcels that would be created under the proposed subdivision were not contemplated in the buildout figures for the Mid-Coast;
- Additional residential subdivisions will consume road capacity for a non-priority use, and would locate development in areas with inadequate services creating a significant adverse impact on coastal resources, in conflict with certified LCP policies. Furthermore, additional subdivisions will further interfere with the public's ability to access the San Mateo coast, in conflict with the public access policies of the Coastal Act.

The LUP contains several policies that require new development to be served by adequate road facilities to serve new development (LUP Policy 2.48), to minimize impacts of development to traffic on local highways (LUP Policy 2.49), and to ensure that new residential development does not consume road capacity needed for visitors (LUP Policy 2.57(c)). Furthermore, Coastal Act Section 30210 requires maximization of public access. Coastal Act Section 30211 requires that development shall not interfere with the public's right of access to the sea. The proposed subdivision would create additional demand



on area highways for a non-priority use in excess of their current and future capacity, in conflict with the above policies. For all the above stated reasons, staff recommends that the Commission **deny** the project due to fundamental inconsistencies with Coastal Act Sections 30210 and 30211, as well as inconsistencies with San Mateo County LUP Policies 2.48, 2.49, and 2.57(c).

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I. Appeal of San Mateo County Decision

A. Local Government Action

A CEQA Mitigated Negative Declaration was prepared for the project in March 2004. At that time, the proposed project included the subdivision of a 32,694 square foot parcel to create three residential parcels of 7,288 square feet, 7,350 square feet, and 18,056 square feet. On January 6, 2005, the San Mateo County Zoning Hearing Officer approved the Mitigated Negative Declaration and a Coastal Development Permit (PLN2002-00533) to subdivide the parcel into three residential parcels. The County’s approval, however, resulted in parcel sizes of approximately 5,788 square feet, 5,850 square feet, and 21,056 square feet (Exhibit #2, page 12). This was done to separate the two newly created



parcels from Arroyo de en Medio Creek to allow for a greater development setback for any future development proposed on the newly created parcels. The applicants did not agree with one of the conditions of approval placed on the project by the Zoning Hearing Officer and filed an appeal to the County's Planning Commission on January 24, 2005. Before County planning staff performed any work on the appeal, the applicants requested that the County delay action on the appeal until they had an opportunity to explore their options with their attorney. County staff agreed to abide by this request. On October 31, 2005, the applicants withdrew their local appeal. Notice of the final County action on the Coastal Development Permit was received in the appropriate Coastal Commission District Office on November 1, 2005 (see Exhibit #2 for the County's Notice of Final Local Decision on the project, including findings, special conditions, and subdivision map). The Commission's ten-working day appeal period for this action began on November 2, 2005 and concluded at 5:00 P.M. on November 16, 2005. A valid appeal by Commissioners Caldwell and Wan (see below and see Exhibit #3) was received on November 16, 2005, within the ten-working day appeal period. The applicants waived the 49-day hearing requirement set forth in Section 30621 of the Coastal Act on November 22, 2005.

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is located within 100 feet of a stream, because a subdivision is not a principal permitted use in this residential zoning district, and because the property is between the sea and the first public road paralleling the sea.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless the Commission finds that the appeal raises "no substantial issue" of conformity of the approved project with the certified LCP. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises substantial issue. It takes a majority of commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicants, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.



Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* portion of the appeal hearing and review the merits of the proposed project. This *de novo* review may occur at the same or subsequent meeting. If the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. Any person may testify during the *de novo* stage of an appeal.

C. Summary of Appellants' Contentions

The appellants (Commissioners Caldwell and Wan) contend that the County's approval of the subdivision is inconsistent with Coastal Act and LCP policies pertaining to regional cumulative traffic impacts that will result in impacts to public access and recreation along the coast, as well as LCP policies regarding grading and landform alteration, visual and scenic resources, and sensitive resource areas. Please see Exhibit #3 for the complete appeal documents.

II. Staff Recommendations

A. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which the appeal was filed pursuant to Coastal Act Section 30603.

MOTION: I move that the Commission determine that Appeal No. A-2-SMC-05-016 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE: The Commission hereby finds that Appeal No. A-2-SMC-05-016 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

B. Staff Recommendation on Coastal Development Permit

Staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the



proposed development.

MOTION: I move that the Commission approve Coastal Development Permit Number A-2-SMC- 05-016 for the development proposed by the applicant.

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

RESOLUTION TO DENY THE PERMIT: The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of the San Mateo County Local Coastal Program and the public access policies of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

III. Substantial Issue Findings and Declarations

As summarized below, the appeals by Commissioners Caldwell and Wan raise a **substantial issue** of conformity of the project approved the County with the provisions of the San Mateo County certified LCP with respect to grading and landform alteration, sensitive habitat resources, and regional cumulative traffic impacts. The appeal also raises a substantial issue of conformity of the approved project with the public access policies of the Coastal Act.

A. Substantial Issue Analysis

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

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

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP and the public access policies of the Coastal Act.

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

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

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply



indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

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

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

The Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with policies of the San Mateo County certified LCP regarding grading and landform alteration, sensitive habitat resources, and traffic impacts, and that the appeal also raises a substantial issue with respect to conformance of the project with the public access policies of the Coastal Act.

B. Project Location & Description

The existing 32,694 square foot parcel is located adjacent to Arroyo de en Medio Creek at 3260 Cabrillo Highway in Miramar in unincorporated San Mateo County (see Exhibit #1 for location maps). The existing 32,694 square foot parcel is developed with a single-family residence and detached garage. The approved project includes subdivision of the 32,694 square foot parcel into three residential parcels consisting of an approximately 5,788 square foot parcel, an approximately 5,850 square foot parcel, and an approximately 21,056 square foot parcel. See Exhibit #2 pg. 12 for the County's approved configuration of the three parcels. The 21,056 square foot parcel would retain the existing single-family residence and detached garage. No residential development has been proposed or approved at this time for the two parcels created by the approved subdivision.



C. Appellants' Contentions That Raise Substantial Issue

1. Sensitive Habitats

The appellants contend that the project approved by the County is inconsistent with the LCP's sensitive habitats policies. Please see Exhibit #4 for the sensitive habitats LUP policies cited in this section.

LUP Policy 7.3 prohibits development that would have significant adverse impacts on sensitive habitat areas, and regulates development in areas adjacent to sensitive habitat areas. The biological assessment performed for the property states that trees on the site may provide nesting habitat for raptors. If the trees provide nesting habitat, they could be classified as environmentally sensitive habitat. The County conditioned its approval to require a survey of all large trees on and within 300 feet of the project sites one week prior to the beginning of subdivision improvements, if this coincides with raptor nesting season (February to July). If any nesting sites are observed, then the applicant is required to consult with the California Department of Fish and Game to determine appropriate mitigation measures. However, in order to assess and avoid the potential significant adverse impacts from the creation of the new lots, a nesting survey should have been conducted before the subdivision was approved to determine whether and how development of the subdivided lots would impact sensitive habitat.

LUP Policy 7.1 defines sensitive habitats, in part, as "all perennial and intermittent streams and their tributaries." As stated above, LUP Policy 7.3 prohibits any land use or development that would have a significant adverse impact on sensitive habitat areas, and also requires development in areas adjacent to sensitive habitats to be sited to prevent adverse impacts. LUP Policy 7.11 requires a 50-foot buffer from perennial streams. The existing parcel abuts Arroyo de en Medio Creek, which is mapped by the USGS as a perennial stream on its 7.5 minute quadrangle series. Thus, Arroyo de en Medio qualifies as sensitive habitat under LUP Policy 7.1. The County conditioned its approval, however, to require a setback of 30 feet from the westerly bank of Arroyo de en Medio, inconsistent with LUP Policy 7.11.

LUP Policies 7.35 and 7.46 provide for preservation of critical habitats for rare, endangered, and unique species. The biological assessment for the property indicates that Arroyo de en Medio provides potential non-breeding dispersal habitat for sensitive and rare species such as the California red-legged frog and the San Francisco garter snake. The report also noted that steelhead may use the creek. The U.S. Fish & Wildlife Service (USFWS) establishes specific upland buffer areas in accordance with the critical habitat designation for the red-legged frog. In past actions concerning development in the San Mateo Coast area, the Coastal Commission has determined that a 300-foot buffer was required to protect California red-legged frog habitat. As indicated above, the approved development would be located within 30 feet of Arroyo de en Medio, a perennial stream that may provide habitat for this species. In addition to the inconsistency of this 30-foot buffer with the minimum 50-foot buffer required for perennial streams as specified in the County's LCP, this 30-foot buffer is inadequate to prevent impacts to California red-legged frog habitat, in conflict with the requirements of LUP Policies 7.35 and 7.46. USFWS should have been consulted prior to approval of the project to determine if the site contains suitable habitat for protected species such as the red-legged frog and whether any specific buffers or other mitigation measures are necessary to protect sensitive species. The County, however, conditioned



its approval to require that a biologist brief construction workers on identifying the California red-legged frog and the San Francisco garter snake prior to the beginning of any subdivision improvements, with USFWS being contacted only if these species are found during construction activities, inconsistent with LUP Policies 7.35 and 7.46.

For all the above reasons, the appeal raises a substantial issue of conformity of the approved project with the LUP's sensitive habitat protection policies.

2. Grading and Landform Alteration

The appellants contend the project approved by the County is inconsistent with San Mateo County LUP Policy 8.17, which addresses alteration of landforms (see Exhibit #4 for the full text of this policy). Specifically, LUP Policy 8.17 requires that development be located and designed to conform with, rather than change, landforms. This policy also requires the minimization of alteration of landforms as a consequence of grading, cutting, excavating, filling, or other development. The approved subdivision site is divided into two terraces with about a 7-foot elevation difference between them. The proposed lot configurations would provide driveway access to the upper terrace on each of the new lots, but there is only about 2,500 square feet on the upper terrace area of these lots. Though no building envelopes were designated as part of the County's approval of the subdivision, substantial fill of the lower terrace would be necessary to provide standard building pads while meeting front yard setback requirements. Thus, unless further conditioned to prohibit such fill, development of the approved lots could involve substantial landform alteration, raising a substantial issue regarding consistency of the project approved by the County with LUP Policy 8.17.

3. Cumulative Traffic Impacts/Public Access and Recreation

The appellants contend that the project approved by the County is inconsistent with the regional cumulative traffic impact policies of the LUP.

San Mateo County LUP Policies 2.48 and 2.49 require adequate road capacity to serve new development and to minimize impacts of development to traffic on the local highways. LUP policy 2.57(c) requires monitoring of peak recreation period traffic to determine whether new residential development is consuming road capacity needed for visitors. Because the parcel approved for subdivision is located between the nearest public road and the sea, the public access and recreation policies of Chapter 3 of the Coastal Act are also applicable. Coastal Act Section 30210 requires that maximum public access opportunities be provided along the shoreline. Coastal Act Section 30211 states that development shall not interfere with the public's right of access to the sea. (See Exhibit #4 for a complete listing of the cited LCP and Coastal Act Policies.)

Road access to the Mid-Coast region of San Mateo County is limited to Highways 1 and 92 (see Exhibit #5). Studies show that the current volume of traffic on these highways exceeds their capacity and that even with substantial investment in transit and highway improvements, congestion will only get worse in the future. As a result, the level of service on the highways at numerous bottleneck sections is currently, and will in the future continue to be rated as LOS F. LOS F is defined as heavily congested flow with traffic demand exceeding capacity resulting in stopped traffic and long delays. This level of



service rating system is used to describe the operation of both transportation corridors as well as specific intersections. LOS F conditions are currently experienced at certain intersections and at bottleneck sections of both highways during both the weekday PM peak-hour commuter period and during the weekend midday peak. As mentioned above, the LCP contains policies that require adequate road capacity to serve new development and the Coastal Act contains policies that protect the public's ability to access the coast. Because there are no alternative access routes to and along the coastline in this area of the coast, the extreme traffic congestion on Highways 1 and 92 significantly interferes with the public's ability to access the area's substantial public beaches and other visitor serving coastal resources, in conflict with these policies.

The approved project includes the subdivision of an existing developed parcel into three parcels. The two undeveloped parcels created by the subdivision could be developed in the future with single-family residences. The newly created parcels, however, were not contemplated in the build-out figures for the Mid-Coast, as projected in LUP Table 2.2.1 (see Exhibit #4), and so are also not reflected in the LUP policies assessing adequate infrastructural needs. Without any new subdivisions, there are over three thousand existing undeveloped lots within the Mid-Coast area. Each of these lots could potentially be developed with at least one single-family residence. Studies show that the current volume of traffic on Highways 1 and 92 exceeds their capacity and that even with substantial investment in transit and highway improvements, congestion will only get worse in the future, with related impacts on the ability of the general public to reach area beaches and the shoreline for priority visitor-serving recreational purposes.

Therefore, the Commission finds that the approved project raises a substantial issue of conformity of the project approved by the County with LUP Policies 2.48, 2.4.9, and 2.57(c) regarding adequate road capacity, and with Coastal Act Sections 30210 and 30211 regarding maximizing public access to the coast.

D. Appellants' Contentions That Raise No Substantial Issue

1. Visual Resources

The Appellants contend that the approved development includes new building sites that may be visible from the Cabrillo Highway State Scenic Corridor, in conflict with the requirement of LUP Policy 8.5(b) to minimize the visibility of building sites within this scenic corridor (see Exhibit #4 for the full text of LUP Policy 8.5(b)).

LUP Policy 8.5(b) requires that new parcels have building sites that are not visible from State and County Scenic Roads and will not significantly impact views from other public viewpoints. This policy also requires that if the entire property being subdivided is visible from State and County Scenic Roads, then the newly formed parcels must have building sites that minimize visibility from these roads.

The approved subdivision site is located adjacent to the Cabrillo Highway State Scenic Corridor. Currently, the portion of the existing parcel where the two new parcels will be created is effectively screened from Cabrillo Highway by existing vegetation and structures. The approved project, i.e. the



subdivision of an existing parcel into three parcels, would not in itself impact views from Cabrillo Highway. Future development on the newly created parcels, however, would likely involve removal of several mature pine trees, which would affect the visual landscape and would allow new residential development on the two new parcels to be seen from Cabrillo Highway. Given that the existing parcel is located directly adjacent to Cabrillo Highway, there are limited options in minimizing visibility of the proposed new parcels from Cabrillo Highway. The existing parcel, however, is located in Miramar, which is an urbanized portion of the Mid-Coast area in unincorporated San Mateo County. Residential development is prevalent along both sides of Cabrillo Highway in this urbanized area of the coast. Future development of the approved parcels would also be screened by existing development and vegetation located between the approved parcels and Cabrillo Highway. Thus, future residential development on these two parcels would be consistent with the existing development pattern along this portion of the Cabrillo Highway and would not significantly impact coastal views. Thus, the proposed subdivision (and potential future development of the two new parcels) would not significantly impact coastal visual resources along this portion of Cabrillo Highway. Therefore, the Commission finds that the appeal raises no substantial issue regarding the conformity of the approved project with the Coastal Scenic Corridor policies of the San Mateo County LCP, in particular LUP Policy 8.5(b).

IV. De Novo Findings and Declarations For Denial

By finding a substantial issue in terms of the project's conformance with the LCP and the public access policies of the Coastal Act, the Commission has taken jurisdiction over the application for the proposed project. The standard of review for this application is consistency with the San Mateo County certified LCP and the public access policies of the Coastal Act.

INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS

The Commission hereby incorporates by reference the Substantial Issue Findings above as if set forth in full.

1. Cumulative Traffic Impacts/Public Access and Recreation

San Mateo County LUP Policies 2.48 and 2.49 require adequate road capacity to serve new development and to minimize impacts of development to traffic on local highways, and state:

***LUP Policy 2.48 (Capacity Limits).** The County will: a. Limit expansion of roadways to capacity which does not exceed that needed to accommodate commuter peak period traffic when buildout of the Land Use Plan occurs; b. Use the requirements of commuter peak period traffic as the basis for determining appropriate increases in capacity.*

***LUP Policy 2.49 (Desired Level of Service).** In assessing the need for road expansion, consider Service Level D acceptable during commuter peak periods and Service Level E acceptable during recreation peak periods.*

San Mateo County LUP Policy 2.57(c) addresses the need to ensure that new residential development is



not consuming road capacity needed for visitors, and states:

LUP Policy 2.57(c) (Protecting Road Capacity for Visitors Through Transportation System Management Techniques). *c. Monitor the peak recreation period traffic to determine whether the above techniques are successful and whether new residential development is consuming road capacity needed for visitors.*

Because the parcel approved for subdivision is located between the nearest public road and the sea, the public access policies of Chapter 3 of the Coastal Act are also applicable. Coastal Act Section 30210 requires that maximum public access opportunities be provided along the shoreline, and Coastal Act Section 30211 requires that development shall not interfere with the public's right of access to the sea, as follows:

Section 30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 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.*

A. Summary of Issues

As discussed in the substantial issue finding above, the existing extreme traffic congestion on Highway 1 (Cabrillo Highway) and Highway 92 (Exhibit #5) during peak periods significantly interferes with the public's ability to access the area's substantial public beaches and other visitor serving coastal resources, in conflict with the above-cited LCP and Coastal Act policies. The project before the Commission includes the subdivision of an existing residential parcel into three residential parcels. The existing residential parcel contains a viable economic use, i.e. a single-family residence and detached garage. The newly created parcels were not contemplated in the build-out figures for the Mid-Coast, as projected in Table 2.21 (see Exhibit #4), and so are not reflected in the LUP policies regarding assessing adequate infrastructural needs, such as road capacity. Per the County's LCP Update Project, without any new subdivisions, there are at least three thousand existing undeveloped residential parcels in the Mid-Coast area. Each of these parcels could be developed in the future with a residential use, further compounding traffic congestion on already congested Highways 1 and 92 and impacting the public's ability to access the coast.

The most recent Countywide Transportation Plan predicts far greater congestion on these two corridors by 2010, stating "in 2010 the most congested corridor [in San Mateo County] will be Western 92" (CCAG 2000). This report projects increases in the traffic volumes of 197 and 218 percent on Highways 1 and 92 respectively in the Mid-Coast region, and attributes these increases to "the anticipated levels of new development on the Coastside and the continued pattern of Coastside commuters out-commuting to jobs in San Francisco and on the Bayside." This report serves to corroborate and



underscore the findings of all of the previous traffic studies conducted in the region over the past three decades that Highways 1 and 92 in the Mid-Coast Region are not adequate to serve either the current or the expected future demands of development.

There is also a significant imbalance between housing supply and jobs throughout the Mid-Coast region of San Mateo County. The County's Congestion Management Plan (CMP) concludes that a major factor contributing to existing and future traffic congestion throughout the County is the imbalance between the job supply and housing (CCAG 2003). In most areas of the County, the problem is caused by a shortage of housing near the job centers, resulting in workers commuting long distances from outside the County. In these areas, the CMP recommends general plan and zoning changes designed to increase the housing supply near the job centers of the County. In the Mid-Coast area of the County, however, the problem is reversed with a shortage of jobs along the Mid-Coast, forcing residents to commute over Highways 1 and 92 to inland jobs.

In light of the inescapable fact that there is not adequate highway capacity to serve even the existing level of development in the region, the question that is squarely before the Commission in considering the proposed subdivision is whether the applicants' request to subdivide an existing developed parcel into three residential parcels can be permitted consistent with the certified LCP policies and the public access policies of the Coastal Act. Because there are no alternative access routes to and along the coastline in this area of the coast, the extreme traffic congestion on Highways 1 and 92 significantly interferes with the public's ability to access the area's substantial public beaches and other visitor serving coastal resources in conflict with these policies. The Commission finds that any increase in legal lots in the Mid-Coast Region will result in significant adverse cumulative impacts to public access, and would therefore be inconsistent with the San Mateo County LCP and the Coastal Act's public access and recreation policies.

The only mitigation provided regarding the cumulative traffic impacts of the County-approved subdivision project pursuant to the County's action is the payment of unspecified "roadway mitigation fees" to address the cumulative traffic impacts caused by the creation of additional buildable parcels by this subdivision. The County's action does not specify the amount of the mitigation fees, how these mitigation fees would be spent, nor does it demonstrate that these mitigation fees are sufficient to address either the local or the regional cumulative impacts of the development. Furthermore, the Commission has not certified the traffic impact mitigation fee provisions of County Ordinance #3277 as adequate to carry out the requirements of the Coastal Act or the Certified LUP. Additionally, according to the Regional Transportation Plan, the volume of traffic on Highways 1 and 92 in the Mid-Coast Region will continue to greatly exceed capacity. In fact, the regional transportation studies demonstrate that no reasonably anticipated level of investment in transportation system improvements is adequate to avoid increased congestion on Mid-Coast Highways 1 and 92. The San Mateo County Countywide Transportation Plan shows that even under the maximum investment alternative of \$3.2 billion in highway and transit improvements, by 2010, the regional level of service on Highways 1 and 92 will be significantly worse than the already unacceptable levels of service that currently exist. Thus, the mitigation fees required as a term of the County's approval are inadequate to avoid or offset the cumulative traffic impacts that will result from the approved increase in the supply of legal lots in the region.



The regional transportation studies conducted over the last 20-plus years clearly and consistently demonstrate that the Mid-Coast area highways cannot support the current level of development and that anticipated growth will result in even greater traffic congestion despite billions of dollars of transportation system expenditures. Therefore, the Commission finds that adequate infrastructure is not available to serve the proposed development, as required by the San Mateo County LCP, and that the mitigation required by the County is inadequate to offset these impacts. Furthermore, the Commission finds that the regional cumulative traffic impacts of the proposed development would significantly interfere with the public's ability to access the coast, in conflict with Coastal Act Policies 30210 and 30211. Accordingly, the proposed subdivision must be denied.

B. LCP and Coastal Act Standards

The San Mateo County LCP contains policies requiring adequate road capacity to serve new development and to ensure that new residential development does not consume road capacity needed for visitors. Additionally, the LCP considers Level of Service (LOS) D acceptable during commuter peak periods and LOS E acceptable during recreational peak periods.¹ Coastal Act public access policies 30210 and 30211 require the maximization of public access and that development shall not interfere with the public's right of access to the sea.

C. Regional Transportation Setting

The Mid-Coast area of San Mateo County can only be accessed via Highway 1 from the north and south and by Highway 92 from the east (see Exhibit #5). Road access to the San Mateo County Mid-Coast region is already overwhelmed and capacity increases are severely constrained, both legally and physically.

Highway 1 Corridor

Coastal Act Section 30254 states that it is the intent of the legislature that in rural areas, Highway 1 shall remain a scenic two-lane road. This Coastal Act policy is implemented through the San Mateo County LCP.

The Highway 1 (Exhibit #5) corridor in the Mid-Coast region is currently overwhelmed at peak times. The maximum capacity of the Highway 1 corridor (LOS E) is approximately 2,500 vehicles per hour. Any volume greater than 2,500 vehicles per hour is considered an undesirable level of service F. Currently, the corridor carries at least 3,120 vehicles during the weekday PM peak-hour and at least 3,000 vehicles during the Saturday midday peak-hour.² Thus, the corridor operates at LOS F at these times, inconsistent with LUP Policy 2.49, which considers LOS D acceptable during peak commuter periods and LOS E acceptable during recreational peak periods.

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

² CCS 1998. "Supplemental Traffic Study, Foothill Boulevard Access Alternatives," CCS Planning & Engineering, December 1998.



While the corridor may be improved in the future, the potential for increased capacity is limited. Less than 10 miles north of the proposed subdivision site, Highway 1 passes through the “Devil’s Slide” area, where landslides cause frequent interruptions and occasional closures during the rainy season. Caltrans has received the necessary approvals and has begun construction of two tunnels to bypass Devil’s Slide. While the tunnel project will improve operations of the highway in the section by preventing slide-related delays and closures, each tunnel will only provide one lane (one for each direction of travel), consistent with Coastal Act Section 30254.

Highway 92 Corridor

Highway 92 runs east of the City to Highway 280 traversing steep rugged terrain (Exhibit #5). Here too, there is some potential for increased capacity, but there is little basis for concluding that any such potential would alleviate the severe congestion that already exists in the Mid-Coast region.. Because of the steep slopes, slow-moving vehicles delay eastbound traffic. Currently, the Highway 92 corridor carries at least 1,976 vehicles during the weekday PM peak-hour and at least 1,800 vehicles during the Saturday midday peak-hour. Given the characteristics of this roadway, including its steep slopes and curves, this traffic volume results in a level of service F during the weekday peak and nearly F during the weekend peak, inconsistent with LUP Policy 2.49.³

In 1989, the voters of San Mateo County passed Measure A, a 1/2 cent sales tax initiative to provide funds for transportation improvements within the County.⁴ Operational and safety improvements to Highway 92 from Highway 1 to Highway 280 were included as part of the Measure A program. Improvements were subsequently divided into separate construction packages. Construction has been completed on the first segment to go into construction, the section of Highway 92 from Pilarcitos Creek to Skyline Boulevard (Highway 35). This phase’s improvements included the addition of an uphill lane, installation of a concrete median divider, and widening of the shoulders along this portion of Highway 92. The other phases will include Highway 92 improvements within the City of Half Moon Bay and in the County area east of the City limit. These phases will include a variety of improvements, including widening of portions of the highway and a variety of intersection improvements in Half Moon Bay. These improvements will not, however, improve the bottlenecks on Highway 92 east of the City of Half Moon Bay that interfere with the public’s ability to access the Mid-Coast region from inland areas. This is because the steep and rugged terrain and proximity to stream corridors prohibit widening the roadway to provide additional lanes along large portions of Highway 92. Thus, while the proposed improvements will improve the flow of traffic through this corridor, it is not feasible to increase capacity through further lane additions to the western segment of Highway 92, which provides access from Highway 280 to the Mid-Coast region.

Land Use Plans

The San Mateo County and Half Moon Bay Land Use Plans specify the approximate number of households in the Mid-Coast region if maximum potential buildout occurs. Buildout refers to the point

³ Ibid.

⁴ Unrelated to the City of Half Moon Bay Residential Growth Initiative also known as Measure A.



in time when all developable lots have been developed. These projections are based on current zoning and available lots. The region contains a large number of undeveloped lots in existing “paper subdivisions” dating back to the early 20th Century.

Half Moon Bay LUP Table 1.1 *Maximum Housing and Population, Half Moon Bay Land Use Plan* shows the City at 3,612 existing units as of 1992, growing to full build-out of 7,991-8,071 households by 2020. These projections are based on a 3-percent annual growth rate consistent with the City’s certified LCP Measure A growth restriction and a ratio of 2.6 persons per household.

San Mateo County LUP Table 2.21 estimates the build-out population for the rural and urban Mid-Coast area north of Half Moon Bay at 17,085 persons, and for south of the City of Half Moon bay (South Coast) at 5,000 persons (see Exhibit #4). The LUP does not estimate the number of households that these population levels would reflect. Using the same ratio of 2.6 persons to household used for the City’s LUP, the County buildout levels expressed in numbers of households is 6,571 for the Mid-Coast and 1,923 for the South Coast.

As part of the ongoing Mid-Coast Local Coastal Program Update Project, the County has estimated the residential build-out. According to the County, there are 3,719 existing Mid-Coast residential units and at buildout there will be between 6,757 and 7,153 units. Thus, at this time, according to the County, the Mid-Coast region is only approximately half built-out.

San Mateo County Countywide Transportation Plan

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

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

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



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

The General Plan Buildout Scenario projects the buildout for Half Moon Bay as 7,196 total households, an increase of 4,059 units from the 3,137 units existing in 1990. Buildout for the unincorporated Mid Coast is now projected as between 6,757 and 7,153 units. The growth projections for this scenario are based on local jurisdictions' future land use designations, estimates of residential development and infill capacity and projected absorption to buildout.

Congestion Levels

As noted in the Association of Bay Area Governments 1999 Coastside Subregional Planning Project:

Between 1995 and 1996 San Mateo County experienced a 125% increase in congestion, a rate more than double any other county in the Bay Area. According to the 1995 San Mateo County Congestion Management Plan, the subregion currently suffers from some of the worst peak-hour congestion in the County. More recent data in the June 1997 San Mateo County Transportation Plan (CTP): Alternatives Report indicates that by 2010 key segments of Highways 1 and 92 will operate at the lowest level of service (LOS F) during peak commute times and that the maximum foreseeable public investments in highway and transit improvements will not be able to prevent congestion in the subregion from getting even worse. In addition, planned improvements in mass transit systems including Caltrain and BART do not by themselves offer significant reductions in peak hour congestion Countywide and are even less effective within the subregion given the area's geography and remote location, particularly in Half Moon Bay and the Midcoast.

In addition to limited road capacity, other factors contributing to current and projected increases in congestion include a jobs-housing imbalance, limited access to transit, and a strong preference for driving alone to work.

Thus, as the Commission noted in Appeal No. A-1-HMB-99-022 (Ailanto Properties/Pacific Ridge Subdivision) "the CTPAR shows that even with the maximum investment of \$3.2 billion in highway and transit improvements, the regional level of service on Highways 1 and 92 will be significantly worse than the current unacceptable levels, *even with growth control measures in place in Half Moon Bay.*"

D. Traffic Impacts to Public Access and Visitor Serving Uses

The Mid-Coast shoreline region of San Mateo County includes miles of heavily used publicly owned beach. As the population of the greater San Francisco Bay area continues to grow, use of the Mid-Coast beaches is expected to increase. The congestion on Highways 1 and 92 is currently at a level that significantly interferes with the public's ability to access the Mid-Coast shoreline. This interference with the public's ability to access the coast is a direct result of transportation demands by new residential development overtaking the reservation of adequate capacity for visitor travel to Mid-Coast



beaches. Given the existing traffic congestion, this is especially problematic because only approximately one-half of the existing lots in the Mid-Coast region have been developed. Approval of new subdivisions in the Mid-Coast region would only serve to increase the level of development beyond that which is allowable under the current parcelization and further exacerbate these concerns.

San Mateo County LUP Policies 2.48 and 2.49 require adequate road capacity to serve new development and to minimize impacts of development to traffic on local highways. Additionally, San Mateo County LUP Policy 2.57(c) addresses the need to ensure that new residential development is not consuming road capacity needed for visitors. Additional residential subdivisions will consume road capacity for a non-priority use, and would locate development in areas with inadequate services, creating a significant adverse impact on coastal resources in conflict with certified LCP policies. Furthermore, additional subdivisions will further interfere with the public's ability to access the San Mateo coast, in conflict with Coastal Act public access policies 30210 and 30211.

As discussed above, the CTPAR shows that even with the maximum investment of \$3.2 billion in highway and transit improvements, in 2010, the regional level of service on Highways 1 and 92 will be significantly worse than the already inadequate levels of service. CTPAR Transportation Scenario 6c assumes that all contemplated highway and transit improvements throughout the County are constructed, including the Devil's Slide bypass, Highway 92 widening and intersection improvements within Half Moon Bay, curve corrections, shoulder widening, slow vehicle passing lane for the section of Highway 92 east of Half Moon Bay to Highway 280, and public transit improvements to Caltrain, BART, and bus services. This transportation scenario is intended to show the congestion levels that will exist in 2010, even with \$3.2 billion in transportation system improvements, without substantial land use and zoning changes. The results demonstrate that even with these transportation system improvements, the 2010 traffic volume will more than double the capacity of Highways 1 and 92 at numerous sections within the Mid-Coast during peak periods. Also, as discussed above, only approximately half of the existing undeveloped lots in the Mid-Coast area have been developed, meaning that there are more than 3,000 existing undeveloped lots that could be developed in the future. Therefore, additional subdivisions in the Mid-Coast region will necessarily contribute to the cumulative adverse impact on traffic and the public's ability to access Mid-Coast beaches. Thus, the Commission finds that the proposed subdivision will have significant adverse cumulative traffic impacts on regional traffic congestion and significant adverse cumulative impacts on the public's ability to access the coast.

The San Mateo County Congestion Management Plan (CCAG 2003) states that one of the key contributors to traffic congestion in the County is the imbalance between the number of people who work in the County and the County's housing supply. For most communities in the County, the problem is a shortage of housing near job centers. However, in the County's Mid-Coast region, the problem is reversed. It is primarily because the Mid-Coast housing supply far exceeds the local job supply that commuter traffic congestion on Highways 1 and 92 is at its current state. Congestion management dictates that the County's housing supply needs should be addressed by providing additional housing in the job centers of the County and not in the Mid-Coast area.

According to the data from the County's LCP update, there are currently 3,719 existing Mid-Coast residential units. At buildout, this number will double to between 6,757 and 7,153 units. These consist



primarily of in-fill lots in existing residential neighborhoods as well as undeveloped lots in undeveloped “paper subdivisions.” Many of these existing lots, particularly those in “antiquated subdivisions” do not conform with current zoning standards, and their development potential is unclear. To the extent some of these lots are legal lots, the Fifth Amendment to the United States Constitution provides that the government shall not take land without just compensation. In accordance with this principle, Coastal Act Section 30010 provides:

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

However, while the owners of legally subdivided lots are entitled to a reasonable economic use of their existing legally subdivided lots, the Commission is not obligated to create additional lots. In this case, the property proposed to be subdivided contains an existing single-family residence. As such, the applicants have an existing economic use of their property.

Given the inability of the Mid-Coast region’s highways to serve the potential development of the existing undeveloped subdivided lots within the region, the Commission finds the proposed subdivision inconsistent with LCP Policies 2.48 and 2.49 regarding requiring adequate road capacity to serve new development and minimizing impacts of development to traffic on local highways. The proposed subdivision is also inconsistent with LCP Policy 2.57(c) regarding ensuring that new residential development does not consume road capacity needed for visitors, and is inconsistent with Coastal Act Sections 30210 and 30211 regarding maximizing access to the coast and not interfering with the public’s right of access to the sea. For these reasons, the project must be denied.

E. Conclusion

Current traffic volumes in numerous bottleneck sections of Highway 1 and Highway 92 in the Mid-Coast region exceed maximum capacity with an LOS of F. The CTPAR, which represents the most comprehensive regional transportation study undertaken for the area, finds that even with the maximum level of investment in transit and highway improvements, congestion in the Mid-Coast region of the County will continue to increase over the next decade. The resulting traffic volumes on both Highways 1 and 92 will greatly exceed the capacity of these roadways. Additionally, the Mid-Coast region currently is only approximately half built out. Thus, any new subdivisions that are not included in the current build-out projections will create additional demands on the region’s transportation infrastructure beyond that projected in the County’s Land Use Plan and the transportation studies discussed herein. Thus, the proposed subdivision would not be served by adequate transportation infrastructure capacity and would result in significant adverse cumulative impacts to the public’s ability to access the coast for priority uses such as public access and recreation.

The LUP contains several policies that require new development to be served by adequate road facilities to serve new development (LUP Policy 2.48), to minimize impacts of development to traffic on local



highways (LUP Policy 2.49), and to ensure that new residential development does not consume road capacity needed for visitors (LUP Policy 2.57(c)). Furthermore, Coastal Act Section 30210 requires maximization of public access. Coastal Act Section 30211 requires that development shall not interfere with the public's right of access to the sea. The proposed subdivision would create additional demand on area highways for a non-priority use in excess of their current and future capacity, in conflict with the above policies. For all the above stated reasons, the Commission finds that the proposed subdivision is inconsistent with Coastal Act Sections 30210 and 30211 and San Mateo County LUP Policies 2.48, 2.49, and 2.57(c) and must therefore be denied.

V. California Environmental Quality Act (CEQA)

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable parts:

CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects. [Relevant Portion.] *A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.*

Public Resources Code (CEQA) Section 21080(b)(5). Division Application and Nonapplication. ...*(b) This division does not apply to any of the following activities: ... (5) Projects which a public agency rejects or disapproves.*

Public Resources Code (CEQA) Section 21080.5(d)(2)(A). *Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.*

CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved. *(a) CEQA does not apply to projects which a public agency rejects or disapproves.*

Section 13096 (14 CCR) requires that a specific finding be made in conjunction with coastal development permit applications about the consistency of the application with any applicable requirements of CEQA. This staff report has discussed the relevant coastal resource issues with the proposal. All above LCP conformity findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

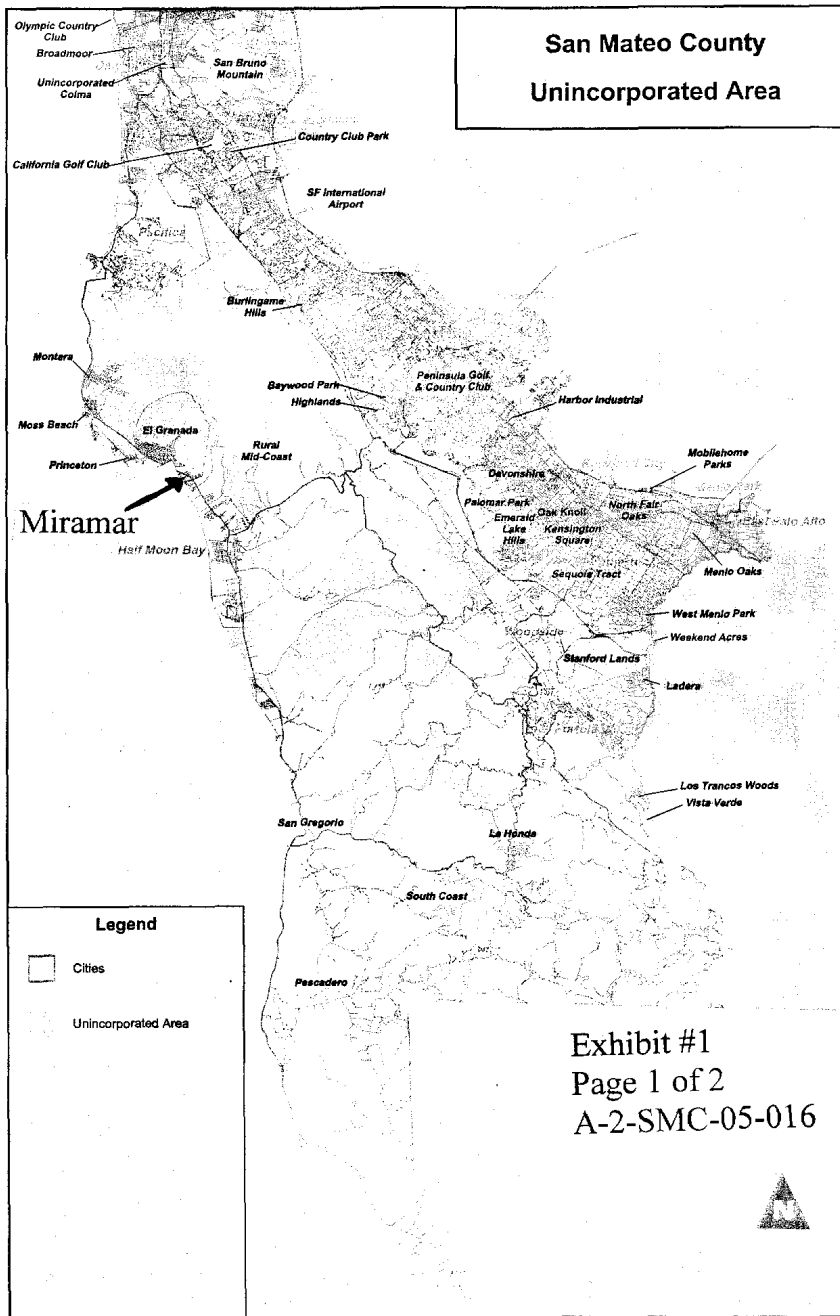
Pursuant to CEQA Guidelines (14 CCR) Section 15042 “a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.” Section 21080(b)(5) of the CEQA, as implemented by section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would



substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project were approved as proposed and is necessary because there are feasible alternatives and mitigation measures available which would substantially lessen any significant adverse effect the project may have on the environment. Accordingly, the Commission's denial of this project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, does not apply.





Prepared by San Mateo County Planning and Building Division using ArcGIS. Source: U.S. Census Bureau, 1992 Tiger/Line file

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3260 Cabrillo Highway, Miramar, California

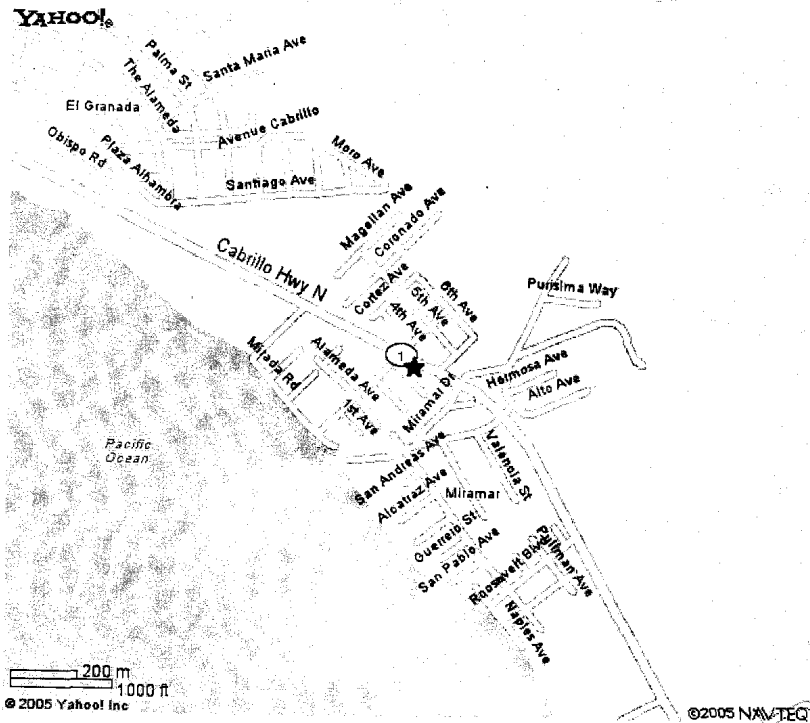


Exhibit #1
Page 2 of 2
A-2-SMC-05-016



San Mateo County Environmental Services Agency

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

October 31, 2005

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

CERTIFIED MAIL

California Coastal Commission
ATTN: Susan Craig
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RECEIVED

NOV 01 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

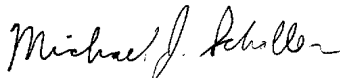
County File No. : PLN2002-00533

Applicant Name: DAVID BRINTON
Owner Name:

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on January 6, 2005. The County appeal period ended on January 26, 2005. Local review is now complete.

This permit IS appealable to the California Coastal Commission; please initiate the California Coastal Commission appeal period.

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



MIKE SCHALLER
Project Planner

fplnfinlocdcsn

Exhibit #2
Page 1 of 12
A-2-SMC-05-016



**San Mateo County
Planning & Building
Division**

Memo

RECEIVED

NOV 01 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

To: Susan Craig

From: Mike Schaller

Date: 10/31/2005

Re: Notice of Final Local Decision for PLN 2002-00533

On January 6, 2005, the Zoning Hearing Officer approved, with conditions this request for a minor subdivision of the parcel located at 3260 Cabrillo Highway in Miramar. The County appeal period for this approval ended on January 26, 2005. The applicant did not agree with one of the conditions of approval and filed an appeal on January 24, 2005. However, before Staff could perform any real work on this appeal, the applicant requested that the County hold off on doing any work until they had had an opportunity to explore their options with their attorney. Staff agreed to this request. On October 31, 2005, the applicant withdrew their appeal. The County is now forwarding onto the Coastal Commission the Notice of Final Local Decision for this project.

Exhibit #2

Page 2 of 12

A-2-SMC-05-016





Please reply to: Michael Schaller
(650) 363-1849

January 6, 2005

David Brinton
PO Box 2784
El Granada, CA 94019

PROJECT FILE

Subject: PLN2002-00533
Location: 3260 Cabrillo Highway, Miramar
APN: 048-042-260

ENVIRONMENTAL SERVICES AGENCY

Agricultural
Commissioner/ Sealer of
Weights & Measures

On January 6, 2005, the Zoning Hearing Officer considered your request for a Coastal Development Permit and Minor Subdivision pursuant to Section 6328.4 of the County Zoning Regulations and Section 7010 of the County Subdivision Ordinance; and certification of a Negative Declaration pursuant to the California Environmental Quality Act, to subdivide a 32,694 sq ft parcel into three parcels located at 3260 Cabrillo Highway, in the unincorporated Miramar area of San Mateo County. This item was continued from the August 21, 2003 and December 2, 2004 Zoning Hearing Officer meetings.

Animal Control

The Zoning Hearing Officer made the findings and approved this project subject to the conditions of approval as attached.

Cooperative Extension

Any interested party aggrieved by the determination of the Zoning Hearing Officer may appeal this decision to the Planning Commission within ten (10) working days from such date of determination. The appeal period for this project will end on January 26, 2005, at 7:00 p.m.

Fire Protection

This permit approval is appealable to the California Coastal Commission. Any aggrieved person who has exhausted local appeals may appeal this decision to the California Coastal Commission within 10 working days following the Coastal Commission's receipt of the County's final decision. Please contact the Coastal Commission's North Central Coast District Office at (415) 904-5260 for further information concerning the Commission's appeal process. The County and Coastal Commission appeal periods run consecutively, not concurrently, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

LAFCo

Library

If you have any questions concerning this item, please contact the Project Planner above.

Parks & Recreation

Very truly yours,

Planning & Building

George Bergman
George Bergman
Zoning Hearing Officer

Exhibit #2
Page 3 of 12
A-2-SMC-05-016

PLANNING AND BUILDING

455 County Center, 2nd Floor • Redwood City, CA 94063 • Phone (650) 363-4161 • FAX (650) 363-4849



cc: Public Works Department
Building Inspection Section
Assessor's Office
City of Half Moon Bay, Planning Director
California Coastal Commission (2)
Gareth Harris, Half Moon Bay Fire Protection District
MCCC, Sara Bassler
Holly Brinton.
Patrick McGuirk
George Llewellyn
Dale M. "Mark" Hornung
Scott Atkinson
Donald Sheardown
Mary Law
Leonard Woren
John Duff
Kerry Burke
Kathryn Slater Carter
Barbara Mauz

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Exhibit #2
Page 4 of 12
A-2-SMC-05-016



Attachment A

County of San Mateo
Environmental Services Agency
Planning and Building Division

FINDINGS AND CONDITIONS OF APPROVAL

FINDINGS

Regarding the Revised Negative Declaration, Found:

1. That the Zoning Hearing Officer does hereby find that this revised Negative Declaration reflects the independent judgment of San Mateo County.
2. That the revised Negative Declaration is complete, correct and adequate and prepared in accordance with the California Environmental Quality Act and applicable State and County guidelines.
3. That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project, as conditioned, will have a significant effect on the environment.
4. That the mitigation measures, identified in the revised Negative Declaration and agreed to by the owners and placed as conditions on the project, have been incorporated into the Mitigation Monitoring and Reporting Plan in conformance with the California Public Resources Code Section 21081.6.

Regarding the Subdivision, Found:

5. That, in accordance with Section 66473.5 of the State Subdivision Map Act, this tentative map, together with the provisions for its design and improvement, as conditioned, is consistent with the San Mateo County General Plan.
6. That the site is physically suitable for the type and proposed density of development.
7. That the design of the subdivision and the proposed improvements, as conditioned, are not likely to cause serious public health problems, substantial environmental damage, or substantially and avoidably injure fish or wildlife or their habitat.
8. That the design of the subdivision and the proposed improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.
9. That the design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities.



Regarding the Coastal Development Permit, Found:

10. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
11. That the project, as conditioned, conforms to the specific findings required by the policies of the San Mateo County Local Coastal Program.

CONDITIONS OF APPROVAL

Planning and Building Division

1. This subdivision approval is valid for two years, during which time a final parcel map shall be filed. An extension to this time period in accordance with Section 7013.5.c. of the Subdivision Regulations may be issued by the Planning Division upon written request and payment of any applicable extension fees if required, 60 days prior to expiration.
2. The tentative map shall be revised as follows:
 - a. The south (rear) property line of proposed Parcel 1 shall be relocated 30 ft to the north, thereby reducing the length of Parcel 1 by 30 ft. The approximately 30 x 50 ft area of Parcel 1 affected by this change shall be added to proposed Parcel 3.
 - b. The south (rear) property line of proposed Parcel 2 shall be relocated 30 ft. to the north, thereby reducing the length of Parcel 2 by 30 ft. The approximately 30 x 50 ft area of Parcel 2 affected by this change shall be added to Parcel 3.

A drawing illustrating this condition is attached as Exhibit "A".

3. No trees shall be removed or injured by any subdivision related improvements, including the proposed fire/emergency vehicle turnaround. Specifically, the adjacent Cypress tree located in the public right of way shall not be removed.
4. The parcel map shall be recorded pursuant to the conditions and plans approved by the Zoning Hearing Officer; any deviation from the approved plans shall be reviewed and approved by the Planning Director or Planning Commission as necessary.
5. Prior to recordation of the parcel map, the applicant shall pay to the San Mateo County Planning and Building Division \$4,708.39 for in-lieu park fees as required by County Subdivision Regulations, Section 7055.3.
6. Planning and Building permits shall be applied for and obtained from the Planning and Building Division for any future construction on the parcels created as a result of the recordation of the final parcel map for this project.



7. All future structures to be built on the project site shall be designed to incorporate permanent stormwater control measures in conformance with Bay Area Stormwater Management Agencies Association (BAASMA) Guidelines. This requirement shall be included as a note on the final map and shall be recorded on all deeds for parcels created by this subdivision. Prior to the issuance of a building permit for any structure on the project site, all plans shall be reviewed by the Planning Division for conformance with this condition.
8. Prior to the beginning of all construction, the applicant shall submit to the Planning Division, for review and approval, an erosion and drainage control plan which shows how the transport and discharge of soil and pollutants from the project site will be minimized. The goal is to prevent sediment and other pollutants from leaving the project site and to protect all exposed earth surfaces from erosive forces. Said plan shall adhere to the San Mateo County Wide Stormwater Pollution Prevention Program "General Construction and Site Supervision Guidelines," including:
 - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
 - b. Removing spoils promptly, and avoiding stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to a local storm drain system or water body.
 - d. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

The approved erosion and drainage control plan shall be implemented prior to the commencement of operations.

9. Prior to the beginning of any subdivision improvements, the applicant shall demarcate the construction zone with silt fencing or similar barrier in order to exclude red-legged frog and San Francisco garter snake. Fence material shall be 2.5 ft. tall with the bottom trenched six inches deep and covered with soil. The two feet above ground shall be canted at a 45-degree angle facing outward. This will enable frogs and snakes to escape the construction area. The applicant shall maintain the fence throughout the construction period and have it checked periodically by a biologist.
10. Prior to the beginning of any subdivision improvements, the applicant shall have a qualified biologist conduct a pre-construction survey within the fenced off construction zone for red-legged frog and San Francisco garter snake. Said survey shall occur after the fencing has been erected and after any vegetation that could provide cover or conceal these species has been removed.



11. Prior to the beginning of any subdivision improvements, the applicant shall have a qualified biologist brief construction workers on identifying red-legged frog and San Francisco garter snake. If any are found during construction activities, all work is to stop, and the U.S. Fish and Wildlife Service contacted.
12. Within one week of the beginning of subdivision improvement activities, the applicant shall have a qualified biologist inspect all large trees on, and within 300 feet of, the project site during raptor nesting season (February – July). If any nesting raptors are observed, then the applicant shall consult with the California Department of Fish and Game to determine appropriate protection measures.
13. Within one week of the beginning of subdivision improvement activities, the applicant shall have a qualified biologist inspect the Monterey pine trees on-site for Monarch butterflies during the migration season (October – February). If Monarch roost trees are found, then the applicant shall consult with the California Department of Fish and Game to determine appropriate protection measures.
14. Noise levels produced by proposed construction activities shall not exceed the 80 dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
15. Future home construction on the parcels created by this subdivision shall minimize tree removal as much as possible. This includes reducing building footprints and setting back upper stories to reduce impacts upon tree roots and canopies. The number of trees removed shall not exceed that necessary for a reasonable house design, to the satisfaction of the Coastside Design Review Committee and the Planning Director. This condition of approval shall be recorded on the title page of the parcel map and on all deeds for parcels created by this subdivision and shall be met at the time of building permit review.
16. Prior to recordation of the parcel map, the applicant shall (a) designate on the final map the non-developable area described below, and (b) shall record, on all parcels created by this subdivision, a deed restriction identifying the non-developable area. The non-developable area shall start from the westerly bank of Arroyo de en Medio Creek and shall extend in a westerly direction for a distance of 30 feet. The deed restriction shall state: "No development (structures, decks, patios, landscaping, irrigation lines, etc.) shall occur in the non-development zone. No vegetation shall be disturbed without prior consultation and approval from the San Mateo County Planning Division." Prior to recordation of the final map, the applicant shall place markers at the edge of the non-developable area denoting its presence.
17. Prior to recordation of the parcel map, the applicant shall apply for a demolition permit to remove 1.5 feet from the rear of the existing detached garage on Parcel 3. The map cannot be recorded until this building is brought into conformance with the County's accessory structures regulations.



18. All new utilities required to serve the two new parcels shall be installed underground from the nearest existing utility pole. No new utility poles shall be installed.

Department of Public Works

19. Prior to the issuance of a building permit, the applicant shall pay "roadway mitigation fees" based on the square footage (assessable space) of the proposed residence per Ordinance #3277.
20. The provision of San Mateo County Grading Ordinance shall govern all grading on and adjacent to this site. Unless exempted by the Grading Ordinance, the applicant may be required to apply for a grading permit upon completion of the County's review of applicable plans and should access construction be necessary.
21. The applicant shall submit driveway "Plans and Profiles" to the Public Works Department, showing the driveway access to each parcel (proposed garage slab) complying with County Standards for driveway slopes (not to exceed 20%) and to County Standards for driveways (at the property line/edge of easement) being the same elevation as the center of the access roadway. When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage.
22. The applicant shall demonstrate, to the satisfaction of the Public Works Department and the appropriate Fire District or Fire Marshal, that roadway access from the nearest "publicly" maintained roadway (Third Ave) to the parcels meets or exceeds the County's minimum standards for "Safe and Adequate Access," including provisions for handling both the existing and proposed drainage. If applicable, the applicant must also demonstrate that a turnaround, meeting Fire Marshal requirements, exists or can be provided.
23. Should the above plan for access not meet the County's minimum standard for "safe and adequate," the applicant shall have designed, by a registered civil engineer, and the applicant shall construct/upgrade the access to meet this minimum standard. Said roadway shall be a minimum of 20 ft. wide with shoulders and shall show specific provisions and details for handling both the existing drainage and the proposed drainage. Roadway grades shall not exceed 15%. These plans for access shall also meet all conditions and requirements of the appropriate fire jurisdiction, including, but not limited to, the construction of a turnaround.
24. Should the proposed access go through adjacent parcels, the applicant shall provide documentation that "ingress/egress" easements exist providing for this access.

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25. The applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed subdivision and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off of the property being subdivided shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Recommended measures shall be designed and included in the street improvement plans and submitted to the Public Works Department for review and approval.

26. The applicant shall record documents that address future maintenance responsibilities of any private drainage and/or roadway facilities that may be constructed. Prior to recording these documents, they shall be submitted to the Public Works Department for review.

The applicant shall prepare a plan indicating the proposed method of sewerage for these parcels. This plan should be included on the improvement plans and submitted to the Public Works Department and the appropriate Sewer District for review and approval. Upon completion of this review, the applicant or his engineer shall have these approved plans signed by the appropriate sewer district.

The property owner shall dedicate sanitary sewer easements for any portion of the sewer main which lies outside of existing public sanitary sewer easements, if applicable.

27. The applicant shall submit, to both the Public Works Department and the Planning Division, written certification from the appropriate Water District stating that their requirements to provide water service connections to the proposed parcels of this subdivision have been met.

28. Any potable water system work required by the appropriate district within the County right-of-way shall not be commenced until County requirements for the issuance of an encroachment permit have been met. Plans for such work shall be reviewed by the Public Works Department prior to the issuance of the permit.

29. The applicant shall submit written certification from the appropriate energy and communication utilities to the Public Works Department and the Planning Division, stating that they will provide energy and communication services to the proposed parcels of this subdivision. The applicant shall also show the locations for the trench work required to provide underground utilities to the parcels.

30. "As-Built" plans of all construction required by these conditions shall be prepared and signed by the subdivider's engineer upon completion of all work. The "As-Built" plans shall be accompanied by a written certification from the engineer that all private facilities have been completed in conformance with the approved plans.

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



32. The applicant shall submit a parcel map to the Department of Public Works for review and recording.

Half Moon Bay Fire Protection District

33. The applicant must have a maintained all-weather surface road for ingress and egress of fire apparatus. The San Mateo County Department of Public Works and the Half Moon Bay Fire District ordinance shall set road standards. Dead-end roads exceeding 150 feet shall be provided with a turnaround in accordance with Half Moon Bay Fire District specifications, this includes driveways. Road width shall not be less than 20 feet. An approved turnaround must be installed which meets fire department access requirements.
34. A fire district approved fire hydrant (Clow 960) must be located within 250 feet of all newly created parcels measured by way of drivable access. The hydrant may be located as shown on the Tentative Map or located as required by the Half Moon Bay Fire District. The hydrant must produce a minimum fire flow of 1,000 gallons per minute at 20 pounds per square inch residual pressure for two hours. Contact your local water purveyor for water flow details. This improvement must be constructed or bonded for, prior to the recordation of the parcel map. It is not known if the existing underground water line in the area is capable of delivering the required fire flows. If not, then it will need to be upgraded, which could require a separate Coastal Development Permit.



EXHIBIT "A"

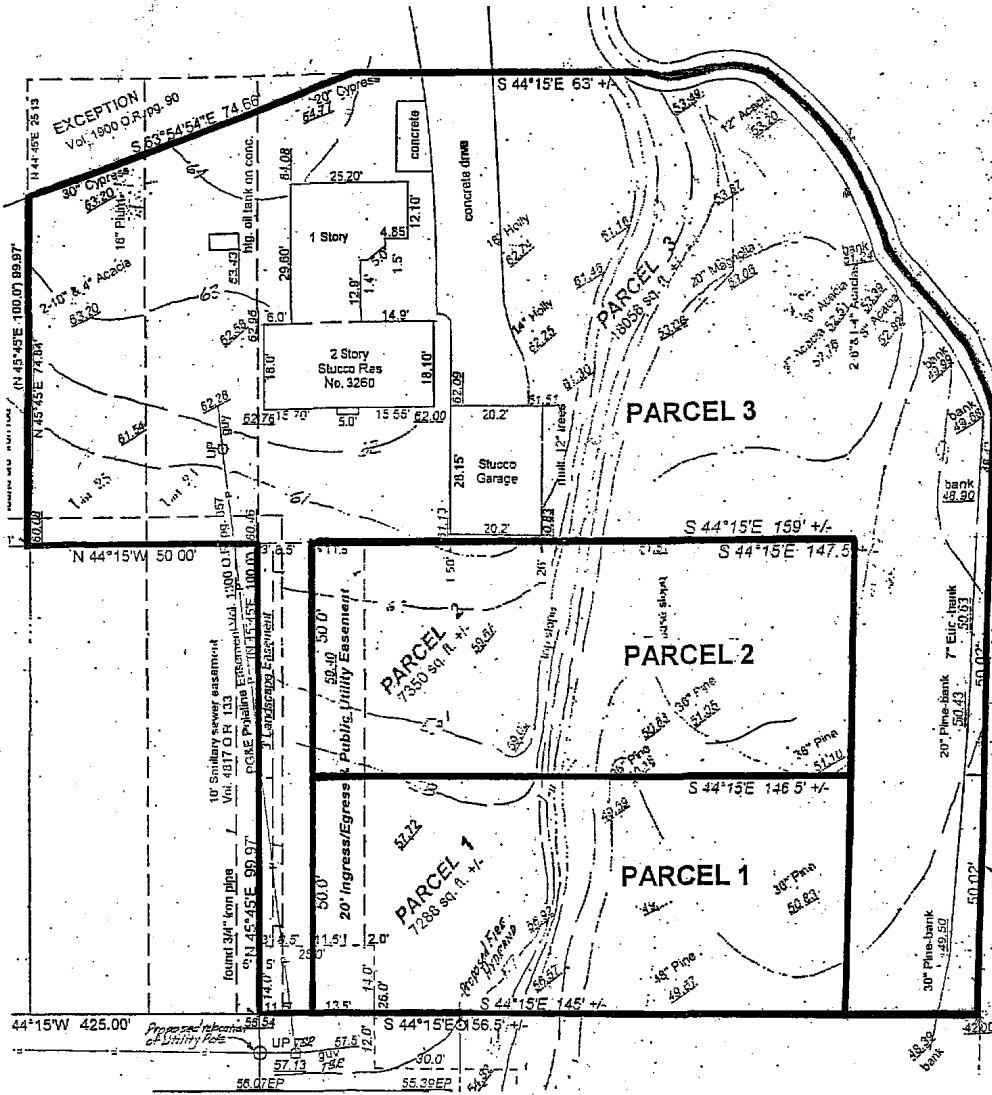


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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

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

Commissioner Sara Wan	Commissioner Meg Caldwell
California Coastal Commission	California Coastal Commission
45 Fremont Street, Suite 2000	45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219	San Francisco, CA 94105-2219
(415) 904-5200	(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: County of San Mateo

2. Brief description of development being appealed:
Subdivision of a 32,694 sq. ft. parcel to create three residential parcels: two parcels consisting of approximately 5,000 sq. ft. each; one parcel consisting of approximately 22,000 square feet. Subdivision also includes creation of a landscaping easement and an access easement for future construction of a hammerhead turnaround.

3. Development's location (street address, assessor's parcel number, cross street, etc.):
3260 Cabrillo Highway, Miramar, San Mateo County (APN 048-042-260)

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: XX
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____
DATE FILED: _____
DISTRICT: _____

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Page 2

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

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

a. Planning Director/Zoning Administrator

c. Planning Commission

b. City Council/Board of Supervisors

d. Other: _____

January 6, 2005 (note: applicant appealed approval locally; dropped appeal on 10/31/05)

6. Date of local government's decision: _____

7. Local government's file number: **PLN2002-00533**

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:

David and Holly Brinton
P.O. Box 2784
El Granada, CA 94019

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

(1) **Patrick McGuirk**
475 Third Avenue
Half Moon Bay, A 94019

(2) **Andre Franco, Rocky Law, & Dwayne Franco**
465 3rd Ave.
Half Moon Bay, CA 94019

(3) **Sara Bassler**
Planning & Zoning Committee of the MidCoast Community Council
P.O. Box 64, Moss Beach, CA 94038

(4) **John Duff** **James S. Locke, Jr.**
464 Third Avenue **455 Third Avenue**
Half Moon Bay, CA 94019 **Half Moon Bay, CA 94019**

SECTION IV. Reasons Supporting This Appeal

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

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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

See attached: "Appeal Summary."

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

SECTION V. Certification

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

Signed: Meg Caldwell
Appellant or Agent Meg Caldwell

Date: November 16, 2005

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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

See attached: "Appeal Summary."

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

SECTION V. Certification

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

Signed: Sara Warren
Appellant or Agent Sara Warren

Date: November 16, 2005

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

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CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-6260
FAX (415) 904-5400



Summary of Reasons for Appeal of Application No. 2-SMC-02-218
San Mateo County Permit File No. PLN 2002-00533
David Brinton, 3260 Cabrillo Highway, Miramar, San Mateo County

The approved development does not conform to the policies of the certified San Mateo County Local Coastal Program (LCP) concerning regional cumulative traffic/shoreline public access, sensitive habitat areas, grading/landform alteration, and visual resources.

1. Regional Cumulative Traffic Impacts/Public Access to the Coast

San Mateo County LUP policies 2.48 and 2.49 require adequate road capacity to serve new development and to minimize impacts of development to traffic on the local highways. LUP policy 2.57(c) requires monitoring of peak recreation period traffic to determine whether new residential development is consuming road capacity needed for visitors. Coastal Act Section 30210 requires that maximum public access opportunities be provided along the shoreline. Coastal Act Section 30211 states that development shall not interfere with the public's right of access to the sea.

Road access to the Mid-Coast region of San Mateo County is limited to Highways 1 and 92. Studies show that the current volume of traffic on these highways exceeds their capacity and that even with substantial investment in transit and highway improvements, congestion will only get worse in the future. As a result, the level of service on the highways at numerous bottleneck sections is currently and will in the future continue to be rated as LOS F. LOS F is defined as heavily congested flow with traffic demand exceeding capacity resulting in stopped traffic and long delays. This level of service rating system is used to describe the operation of both transportation corridors as well as specific intersections. LOS F conditions are currently experienced at certain intersections and at bottleneck sections of both highways during both the weekday PM peak-hour commuter period and during the weekend mid-day peak. As mentioned above, the LCP and the Coastal Act contain policies that protect the public's ability to access the coast. Because there are no alternative access routes to and along the coastline in this area of the coast, the extreme traffic congestion on Highways 1 and 92 significantly interferes with the public's ability to access the area's substantial public beaches and other visitor serving coastal resources, in conflict with these policies.

The approved project includes the subdivision of an existing developed parcel into three parcels. The newly created parcels were not contemplated in the build-out figures for the Mid-Coast, as projected in LUP Table 2.2.1, and so are also not reflected in the LUP policies assessing adequate infrastructural needs. Without any new subdivisions, there are at least several thousand existing undeveloped small lots within the Mid-Coast area. Each of these lots could potentially be developed with at least one single-family residence. Studies show that the current volume of traffic on Highways 1 and 92 exceeds their capacity and that even with substantial investment in transit and highway improvements, congestion will only get worse in the future, with related impacts on the ability of the general public to reach area beaches and the shoreline for priority

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visitor-serving recreational purposes. As a result, the approved development will interfere with the public's ability to access the coast, inconsistent with Coastal Act Sections 30210 and 30211 and with LUP Policies 2.48, 2.49, and 2.57(c). The approved project is also inconsistent with LUP Policy 1.19 regarding concentrating development in existing residential subdivisions.

In two separate actions in 2001, the Commission approved two subdivisions in nearby Half Moon Bay: the Pacific Ridge subdivision and the Beachwood subdivision. In both cases, the Commission found that in light of both the current and projected traffic levels on the area highways, any new subdivision resulting in a net increase in legal lots in the San Mateo County Mid-coast Region would have significant adverse cumulative impacts to regional traffic congestion. In accordance with the policies of the Half Moon Bay LCP that require new development to be served by adequate public services and that seek to protect the public's right to access the coast by reserving service capacity for that priority use, the Commission required as a condition of approval for the Pacific Ridge and Beachwood projects that the applicants retire the development rights on an equivalent number of existing legal lots within the region. Only through this measure was the Commission able to find the projects consistent with the Half Moon Bay LCP. The only mitigation provided regarding the cumulative traffic impacts of the approved Brinton subdivision project pursuant to the County's action is the payment of unspecified "roadway mitigation fees" to address the cumulative traffic impacts caused by the creation of additional buildable parcels by this subdivision. The County's action does not specify the amount of the mitigation fees, how these mitigation fees will be spent, nor does it demonstrate that these mitigation fees are sufficient to address either the local or the regional cumulative impacts of the development. Furthermore, the Commission has not certified the standard traffic impact mitigation fee provisions of County Ordinance #3277 as adequate to carry out the requirements of the Coastal Act or the Certified LUP. Furthermore, according to the Regional Transportation Plan, even with the maximum contemplated investment in regional highway and transit improvements totaling \$3.2 billion, the volume of traffic on Highways 1 and 92 in the Mid-Coast Region will continue to greatly exceed capacity. Thus, the mitigation fees required as a term of the County's approval are inadequate to avoid or offset the cumulative traffic impacts that will result from the approved increase in the supply of legal lots in the region. Therefore, the approved development is inconsistent with LUP Policies 2.48, 2.49, 2.57(c), and Coastal Act Sections 30210 and 30211.

2. Inconsistencies with Grading/Landform Alteration Policy 8.17

The project is inconsistent with San Mateo County LUP policy 8.17, which addresses alteration of landforms. Specifically, LUP Policy 8.17 requires that development be located and designed to conform with, rather than change, landforms. This policy also requires the minimization of alteration of landforms as a consequence of grading, cutting, excavating, filling, or other development. The approved subdivision site is divided into two terraces with about a 7-foot elevation difference between them. The proposed lot configurations would provide driveway access to the upper terrace on each of the new lots, but there is only about 2,500 square feet on the upper terrace area of these lots. Though no building envelopes are indicated, substantial fill of the lower terrace would be necessary to provide a reasonable building pad while meeting front

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2-SMC-02-218 (Brinton Subdivision)
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yard setback requirements. Thus, development of the approved lots would require substantial landform alteration, in conflict with LUP policy 8.17.

3. Inconsistencies with LCP Visual Resources Policies

LUP Policy 8.5(b) requires that new parcels have building sites that are not visible from State and County Scenic Roads and will not significantly impact views from other public viewpoints. If the entire property being subdivided is visible from State and County Scenic Roads, then this policy requires that the new parcels have building sites that minimize visibility from these roads. The subdivision site is located adjacent to the Cabrillo Highway State Scenic corridor and all of the proposed parcels would be highly visible from Cabrillo Highway. Creating additional developable lots within this already developed parcel in plain view from Cabrillo Highway would be in conflict with the requirement of LUP Policy 8.5(b) to *minimize* the visibility of building sites within this scenic corridor. Thus, the project, as approved by the County, is inconsistent with LUP Policy 8.5(b) regarding protection of visual resources.

4. Inconsistencies with LCP Sensitive Habitats Policies

LCP Policy 7.3 prohibits development that would have significant adverse impacts on sensitive habitat areas and regulates development in areas adjacent to sensitive habitat areas. The biological assessment performed for the property states that trees on the site may provide nesting habitat for raptors. If the trees provide nesting habitat, they could be classified as environmentally sensitive habitat. The County conditioned its approval to require a survey of all large trees on and within 300 feet of the project sites one week prior to the beginning of subdivision improvements, if this coincides with raptor nesting season (February - July). If any nesting sites are observed, then the applicant is required to consult with the California Department of Fish and Game to determine appropriate mitigation measures. However, in order to determine the potential adverse impacts from the creation of the new lots, a nesting survey should have been conducted before the subdivision was approved to determine whether development of the subdivided lots would impact ESHA. Thus, the approved project is inconsistent with LUP Policy 7.3 regarding the protection of sensitive habitat areas.

LUP Policy 7.1 defines sensitive habitats, in part, as "all perennial and intermittent streams and their tributaries." As stated above, LUP Policy 7.3 prohibits any land use or development that would have a significant adverse impact on sensitive habitat areas, and also requires development in areas adjacent to sensitive habitats to be sited to prevent adverse impacts. LUP Policy 7.11(a) requires a 50-foot buffer from perennial streams. The existing parcel abuts Arroyo de en Medio, which is mapped by the USGS as a perennial stream on its 7.5 minute quadrangle series. Thus, Arroyo de en Medio qualifies as sensitive habitat under LUP Policy 7.1. The County conditioned its approval, however, to require a setback of 30 feet from the westerly bank of Arroyo de en Medio, inconsistent with LUP Policy 7.11(a).

LUP Policies 7.35 and 7.46 provide for preservation of critical habitats for rare, endangered, and unique species. The biological assessment for the property indicates that Arroyo de en Medio provides potential non-breeding dispersal habitat for sensitive and rare species such as the

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California red-legged frog and the San Francisco garter snake. The report also noted that steelhead may use the creek. The U.S. Fish & Wildlife Service (USFWS) establishes specific upland buffer areas in accordance with the critical habitat designation for the red-legged frog. In past actions concerning development in the San Mateo Coast area, the Coastal Commission has determined that a 300-foot buffer was required to protect California red-legged frog habitat. As indicated above, the approved development would be located within 30 feet of Arroyo de en Medio, a perennial stream that may provide habitat for this species. This 30-foot buffer is inconsistent with the minimum 50-foot buffer required for perennial streams as specified in the County's LCP and is inadequate to prevent impacts to California red-legged frog habitat, in conflict with the requirements of LUP Policies 7.35 and 7.46. USFWS should have been consulted prior to approval of the project to determine if any specific buffers or other mitigation measures are necessary to protect sensitive species. The County, however, conditioned its approval to require that a biologist brief construction workers on identifying the California red-legged frog and the San Francisco garter snake prior to the beginning of any subdivision improvements, with USFWS being contacted only if these species are found during construction activities, inconsistent with LUP Policies 7.35 and 7.46.

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CITED COASTAL ACT POLICIES

Section 30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 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.*

CITED SAN MATEO COUNTY LAND USE PLAN POLICIES

Public Works Component

LUP Policy 2.48 (Capacity Limits). *The County will: a. Limit expansion of roadways to capacity which does not exceed that needed to accommodate commuter peak period traffic when buildout of the Land Use Plan occurs; b. Use the requirements of commuter peak period traffic as the basis for determining appropriate increases in capacity.*

LUP Policy 2.49 (Desired Level of Service). *In assessing the need for road expansion, consider Service Level D acceptable during commuter peak periods and Service Level E acceptable during recreation peak periods.*

LUP Policy 2.57(c) (Protecting Road Capacity for Visitors Through Transportation System Management Techniques). *c. Monitor the peak recreation period traffic to determine whether the above techniques are successful and whether new residential development is consuming road capacity needed for visitors.*

Sensitive Habitats Component

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

Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

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

7.11 Establishment of Buffer Zones. a. On both sides of riparian corridors, from the limit of riparian vegetation extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams. b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high water point for perennial streams and 30 feet from the midpoint of intermittent streams. c. Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point except for manmade ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.

7.35 Preservation of Critical Habitats. Require preservation of all habitats of rare and endangered species using criteria including, but not limited to, Section 6325.2 (Primary Fish and Wildlife Habitat Area Criteria) and Section 6325.7 (Primary Natural Vegetative Areas Criteria) of the Resource Management Zoning District.

7.46 Preservation of Habitats. Require preservation of critical habitats using criteria including, but not limited to, Section 6325.2 (Primary Fish and Wildlife Habitat Area Criteria) and Section 6325.7 (Primary Natural Vegetative Areas Criteria) of the Resource Management Zoning District.

Visual Resources Component

8.5(b) Location of Development. b. Require, including by clustering if necessary, that new parcels have building sites that are not visible from State and County Scenic Roads and will not significantly impact views from other public viewpoints. If the entire property being subdivided is visible from State and County Scenic Roads or other public viewpoints, then require that new parcels have building sites that minimize visibility from those roads and other public viewpoints.

8.17 Alteration of Landforms; Roads and Grading. a. Require that development be located and designed to conform with, rather than change landforms. Minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development. b. To the degree possible, ensure restoration of pre-existing topographic contours after any alteration by development, except to the extent necessary to comply with the requirements of Policy 8.18. the natural topography and to minimize alteration of existing landforms and natural characteristics. c. Control development to avoid the need to construct access roads visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

Exhibit #4

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TABLE 2.21 ESTIMATED BUILDOUT POPULATION OF LCP LAND USE PLAN		
Urban/Rural Development	Location	Estimated Population ¹
<u>MID-COAST</u>		
Urban Infill	Within Urban Boundary	29,000-30,500
	Montara, Moss Beach, El Granada	(15,500)
	Half Moon Bay	(13,500-15,000)
Rural Development		1,585
Subtotal		30,500-32,000
<u>SOUTH COAST</u>		
Subtotal		5,000
TOTAL		35,500-37,000

NOTE:

1. Reflects the second units permitted in R-1 Coastal Zoning Districts.

GOB10515.6FM
(6/16/98)



Exhibit 6.1

