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Staff: MC - SC
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PERMIT AMENDMENT

APPEAL NO.: A-1-HMB-99-022-A-1 (Pacific Ridge)

APPLICANTS: Ailanto Properties

LOCAL GOVERNMENT: City of Half Moon Bay

PROJECT LOCATION: Adjacent to the eastern ends of Grandview Boulevard and Terrace Avenue, north of Highway 92 and east of Highway 1 in the City of Half Moon Bay, San Mateo Co.

ORIGINAL DESCRIPTION: Subdivide 2 parcels totaling 114 acres into 134 residential lots and 1 open space parcel; construct 134 single-family homes, a neighborhood park, streets and infrastructure.

PROPOSED AMENDMENT: Reduce number of proposed residential lots to 63.

RECOMMENDATION: Approval with Conditions

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EXHIBITS

Exhibit 1:	Settlement Agreement
Exhibit 2:	January 2001 Site Plan
Exhibit 3:	Open Space Plan
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Exhibit 6:	Regional Location Map
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Exhibit 8:	Prime Agricultural Soils Map
Exhibit 9:	March 2000 Project Site Plan
Exhibit 10:	City of Half Moon Bay Traffic Report Summary
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Exhibit 12:	Wetlands Delineation
Exhibit 13:	Development Plan
Exhibit 14:	Drainage Map
Exhibit 15:	Original Conditions of Approval Imposed in January 26, 2001
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EXECUTIVE SUMMARY

Background

On March 17, 2000, the Commission found that the appeals submitted regarding the originally proposed project raised a substantial issue with respect to the grounds on which they were filed. On May 12, 2000, the Commission opened a public hearing for the de novo portion of the appeal. During this hearing, the Commission staff presented a summary of the issues raised by the proposed project and the Commission received testimony from the applicant and from interested members of the public. The Commission then continued the de novo hearing to December 13, 2000 to allow staff additional time to prepare a recommendation for Commission action on the appeal.

On November 28, 2000, the staff published a written recommendation for denial of the permit application based on several factors, including that the proposed development would cause significant adverse impacts to coastal access and recreation due to traffic congestion on coastal access routes and to environmentally sensitive habitat areas. At the December 13, 2000 hearing, the Commission heard testimony from the applicant, interested public, and the staff, and then continued the de novo hearing with direction to the applicant and staff to revise the project to resolve the sensitive habitat and other issues.

On February 16, 2001, the Commission approved the Pacific Ridge development with conditions, and on August 9, 2001, the Commission adopted findings for action approving the development project under the Half Moon Bay Local Coastal Program. On April 13, 2001, the applicant filed litigation containing five causes of action against the Commission: (1) a petition for writ of administrative mandamus against the Commission; (2) a damages claim against the Commission for a taking; (3) a damages claim against the Commission for violation of due process; (4) a damages claim against the Commission alleging violation of equal protection; and (5) a claim to recover from the City amounts paid to finance public improvements. The petition for writ of administrative mandamus was resolved by the trial court in the Commission's favor on November 26, 2002. Specifically, on November 26, 2002, the San Mateo Superior Court held that the Commission's imposition of a lot retirement condition and a 300 ft. habitat buffer condition was not an abuse of discretion; was supported by substantial evidence and satisfied the requirements of Nollan and Dolan. This trial court decision is not a final judgment and may be appealed by the applicant. The damages claims for a taking, violation of due process and violation of equal protection are also still pending. In related litigation, the applicant also filed claims against the City regarding the validity of the vesting tentative map that was approved by the city in 1990 for the project.

In 2004, the applicant, the City of Half Moon Bay and the Commission entered into a settlement agreement to resolve the disputes raised in the litigation. Pursuant to the settlement agreement, the Court has issued the Commission a writ of mandate, remanding the Commission's 2001 approval, and directing the Commission to consider approval of a modified coastal development permit, which is described in the settlement agreement (see Exhibit 1). Under the terms of the settlement agreement, the staff must recommend approval of the modified coastal development permit application. However, the Commission retains full discretion to review the modified CDP for consistency with the LCP. If the Commission denies the modified coastal development permit application or imposes conditions other than those described in the settlement agreement, however, the applicant retains the right to terminate the settlement agreement and resume

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litigation regarding the Commission's original action on the permit or to accept the permit as originally approved by the Commission. As stated above, although the writ of administrative mandamus was resolved by the trial court in the Commission's favor, that decision may be appealed and the damages claims are still pending. In addition, under certain circumstances Ailanto has the right to terminate the settlement agreement even if the Commission approves the modified project as laid out in the settlement agreement (see section 7(a)).

Revisions to the Project

The project has changed significantly since Half Moon Bay's initial approval. For instance, the project initially approved by the City included 197 residential parcels. Subsequent revisions by the applicant reduced the number of parcels to 151 and then 134. On August 9, 2001, the Commission approved a subdivision for 126 residential parcels. The current modified coastal development permit application, as described in the settlement agreement, is for 63 homes.

Summary of the Staff Recommendation

Staff recommends that the Commission approve the modified coastal development permit application with 17 special conditions needed to address the significant adverse impacts of the proposed development. Most important, the project would still contribute significant new traffic to the already-congested Highways 1 and 92, which are the only regional highways connecting the access and recreational resources of Half Moon Bay to the larger Bay Area, albeit less than the project originally approved by the Commission. In combination with other projects likely to occur over the next 10 to 20 years in the San Mateo County Mid-Coast area, absent the mitigation measures that the applicant has proposed and that staff recommends be required as conditions of approval, the project would result in significant adverse cumulative effects to this highway congestion, thus adversely affecting the ability of the general public to reach the shoreline for recreational purposes.

The Half Moon Bay LCP prohibits new development if adequate services are not available to support it. For example, LUP Policy 9-4 requires that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP. The LCP also protects public access and highlights the importance of maintaining adequate highway capacity for priority public recreational users. To offset the significant adverse cumulative impacts of the development caused by increased traffic congestion and in exchange for allowing the applicant to create 63 new lots, the applicant proposes, and the staff recommends, Special Condition 7. Consistent with the terms of the settlement agreement and the modified development proposal, recommended Special Condition 7 requires Ailanto to pay a \$45,000 in-lieu fee for each of the 63 lots on which houses will be built to be used by the City for the purpose of acquiring and retiring the development rights on existing legal lots in the region that would otherwise contribute to the significant adverse cumulative impacts on public access if developed. This retirement of development rights adequately mitigates the impacts of the project on Highways 1 and 92.

Second, vehicle access to the site may be limited by inadequate road capacity at the intersection of Terrace Avenue and Highway One. Given the lack of feasible access alternatives to Terrace Avenue, the LCP requires that mitigation to address the constraints at the Terrace intersection be implemented to assure that the buildout of the project will continue to have adequate site access.

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Consistent with the terms of the settlement agreement and the modified development proposal, recommended special condition number 11 addresses the need for mitigation of this project constraint by requiring the applicant to pay an in-lieu fee in an amount equal to the costs of signalization, and the widening of Highway 1 necessary for such signalization, at the intersection of Terrace Avenue and Highway 1, up to the standards of the California Department of Transportation. The money shall be expended to mitigate traffic impacts from the approved Pacific Ridge subdivision by either funding improvements to the intersection of California State Highway One and Terrace Avenue or funding alternative traffic improvements in the vicinity that have been approved for this funding by the Executive Director of the Commission.

Third, consistent with terms of both the proposed modified coastal development permit application and the Settlement Agreement, special conditions are recommended to assure the protection of sensitive species and environmentally sensitive habitat areas on and around the site consistent with the provisions of the certified LCP. The U.S. Fish and Wildlife Service has determined that the project site provides critical habitat for California red-legged frogs and habitat for San Francisco garter snakes, both federally listed species. Therefore, in addition to the proposed buffer areas, the applicant proposes and staff recommends special conditions requiring the applicant to: (1) record an offer to dedicate an open space and conservation easement for resource protection and habitat conservation, (2) prepare and implement a habitat management plan, (3) protect the riparian corridors on the site, and (4) protect nesting raptors and western common yellowthroats from construction-related disturbance impacts.

Consistent with the terms of both the proposed modified coastal development permit application and the Settlement Agreement, staff also recommends other special conditions to address potential impacts to water quality, visual resources, and raptor habitat, to address grading impacts and assure that the required infrastructure is not growth-inducing, to record the permit against the property, and to provide evidence that the settlement is binding prior to issuance of the coastal development permit application.

Finally, staff recommends two new conditions requiring: (1) the applicant to submit a water supply plan prior to issuance of the coastal development permit; and (2) the permittee to comply with construction-related requirements. Although these two conditions are not reflected in the settlement agreement, the applicant has recently modified its project description to incorporate these two new conditions into their modified development proposal.

1.0 STAFF RECOMMENDATION

The staff recommends that the Commission approve the amendment to Coastal Development Permit A-1-HMB-99-022.

MOTION:

I move that the Commission approve the proposed amendment to Coastal Development Permit A-1-HMB-99-022 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of Commissioners present. The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the City of Half Moon Bay certified Local Coastal Program. Approval of the permit amendment complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

1.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Standard Condition 2 shall be superseded by Special Condition 13.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

1.2 Special Conditions

The special conditions identified below comprise special conditions that apply to this permit amendment number A-1-HMB-99-022-A1. All of the Commission's originally adopted special conditions continue to apply unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on Amendment A-1-HMB-99-022-A1 are shown in the following section. This will result in one set of adopted special conditions applicable to amendment number A-1-HMB-99-022-A1.

Comparing the conditions originally imposed by the Commission to the conditions imposed on the modified development proposal as reflected below, Special Conditions 8, 9, 10 and 12 continue to apply as originally imposed. Special Conditions 4, 7 and 11 are replaced in their entirety. Special Conditions 1, 2, 3, 5 and 6 are modified as reflected below. Special Conditions 13 - 17 are newly imposed. Deleted wording within the modified special conditions is shown in ~~striketrough~~ text, and new condition language appears as underlined text.

1. Revised Subdivision Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and approval of the Executive Director, a revised

project site plan ~~eliminating Lot Numbers 124-131~~ as shown on the Pacific Ridge at Half Moon Bay Site Grading Plan dated January 26, 2001, attached as Exhibit ~~144~~ 145. No development, including grading, shall be allowed on any slopes that currently drain to the pond or other wetlands north of Stream 3 ~~as shown on the January 26, 2001 site plan~~.

- B.** The applicant shall undertake development in accordance with the revised site plan approved by the Executive Director. No proposed changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Open Space and Conservation Easement – Habitat Protection

- A.** No development, as defined in Coastal Act Section 30106, nor any agriculture or grazing activities shall occur in ~~the open space and environmentally sensitive habitat areas A and B as north of Stream 3 as shown on Exhibit 143~~ except for: (1) construction of the fence that is sited and designed in accordance with Special Condition 5.A.7 below; ~~and~~ (2) other development necessary for habitat enhancement, if approved by the Commission as an amendment to this coastal development permit; and (3) construction of the pedestrian trail as described in Special Condition 3.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space and conservation easement for the purpose of resource protection and habitat conservation. Such easement shall include legal descriptions of both the applicant's entire property and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition.
- C.** The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Public Access and Park Dedication

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** and consistent with the terms of the proposed project description, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate in fee to the City of Half Moon Bay or to another public agency approved by the Executive Director the 1.9-acre park site, as generally depicted on the ~~January 26, 2001 site plan property map~~ attached as Exhibit ~~314~~ 314. The recorded document shall include legal descriptions of both the applicant's entire property and the fee dedication area. The recorded document shall also reflect that development in the fee dedication area is restricted to public park and recreation purposes.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** and consistent with the terms of the proposed project description, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate a public access easement to the City of Half Moon Bay

or another public agency or private association approved by the Executive Director over the entirety of the trails, paths and associated public parking area as generally depicted on the ~~January 26, 2001~~ site plan attached as Exhibit 4. The parking area shall accommodate 5 cars. The recorded document shall include legal descriptions of both the applicant's entire property and the easement area. The recorded document shall also reflect that development in the easement area is restricted to public access purposes as set forth in this condition.

- C. The offers identified in Subsections A and B shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interests being conveyed. The offers shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. Open Space Deed Restriction – Scenic View Protection

- A. ~~No grading, building footprints, construction or landscaping shall occur on the slopes above the 160-foot contour as shown in Exhibit 15. No building pad for any home in the Project may be situated above the 155 foot contour line, as shown on the May 12, 2008 project plans, attached as Exhibit 5. No grading shall occur above the 160 foot contour line, as shown on the May 12, 2008 project plans, attached as Exhibit 5, except for the installation of v-ditches or other drainage as may be required by geotechnical engineering review and erosion repair in order to comply with Special Condition 8 of the permit and such minor grading as may be required to fulfill any other requirement of the Settlement Agreement between the applicant, the Commission and the City of Half Moon Bay.~~
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT**~~NOI FOR THIS PERMIT~~, the applicant shall ~~execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development on the slopes above the 160-foot contour except for the area within the habitat conservation easement area described in Special Condition 2. The deed restriction shall include legal descriptions of both the applicant's entire property and the easement area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~ submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit C to the Settlement Agreement between the applicant, the Commission, and the City of Half Moon Bay.

5. Habitat Management Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a Habitat Management Plan that shall provide the following specific measures designed to conserve enhance and manage the environmentally sensitive habitat area on the northern portion of the project site for the benefit of the San Francisco garter snake, the California red-legged frog, and other sensitive species that use the area, including raptors. The

applicant shall be responsible for assuring the long-term implementation of the approved Habitat Management Plan.

1. Pond Hydrology

Maintain the diversion berm in central Drainage 3 to continue to direct intermittent water flow from Upper Drainage 3 toward the pond.

2. Grass Management

Manage grassland areas adjacent to, and upslope from, the pond and delineated wetlands to favor (re)establishment of native grass species and reduce or control invasive non-native species.

3. Habitat Enhancement

Manage lands to enhance and protect populations of target species of special-status biota, riparian areas, wetlands, and other site resources.

4. Fuel Management

Reduce or eliminate dangerous accumulations of wildfire fuels.

5. Open Space Management

Develop techniques and strategies for the active management of the open space areas using such tools and practices as grazing, prescribed burning, mechanical control of fuels, habitat (vegetation) restoration and establishment of native plants, erosion prevention and sediment control, and removal of exotic species.

6. Raptors

Prior to commencement of grading or any other construction-related activity, a qualified biologist shall conduct a survey of nesting raptors at the project site. If white-tailed kite, Cooper's hawk or other tree-nesting raptors are found, the tree(s) shall be protected from disturbance during the nesting season. A temporary fence shall be placed 200 feet from the drip line of such trees and all grading or construction activities, including storage of materials or equipment, shall be excluded from the fenced area. If ground-nesting northern barriers are found, a temporary nest shall be placed around the nest at a radius of 300 feet and all construction shall be excluded from the fenced area. During the nesting season, the biologist shall monitor the grading or construction site on a biweekly (14 day) period. The protection measures shall remain in effect until the biologist has verified that adults have abandoned the nest or the young have left the nest or nest tree.

Prior to commencement of grading or any other construction-related activity during the yellowthroat-nesting season, a qualified biologist shall conduct a survey of the project site for nesting salt marsh common yellowthroats. A 100-foot fenced temporary buffer shall be established around any active nest to exclude any construction activity, or any storage of materials or equipment from such buffer. The fence shall remain in place until August 1 of the year or until the biologist verifies that the nest is no longer active.

In the event that adult raptors or yellowthroats abandon a nest during grading or construction, the biologist shall within 48 hours prepare and submit a report to the executive director stating the observation and the biologist's professional opinion of the reasons therefor.

At the end of a grading or construction phase, or the end of each year's nesting season during project construction, whichever comes first, the biologist shall prepare and submit to the executive director a monitoring report on the effectiveness of this condition to protect any identified raptor or yellowthroat nests at the project site.

7. Perimeter Fence

The Habitat Management Plan shall provide for the construction of a four- to five-foot high fence with a solid base to separate the developed areas, ~~including trails,~~ from the adjacent open space and environmentally sensitive habitat areas.

- B. For a period of five years following issuance of the coastal development permit on the anniversary date of the Commission's action to approve the permit, the applicant (or his consulting expert) shall perform and report to the Commission on a monitoring study, consistent with applicable wildlife agency protocols, of the utilization of the dedicated habitat conservation area by the sensitive species referenced in Special Condition 5.A Commencing with the eighth year following issuance of the coastal development permit and every third year thereafter, the "Pacific Ridge at Half Moon Bay" subdivision homeowners association, or its consulting expert, shall perform and report to the Commission on a monitoring study, consistent with applicable wildlife agency protocols of the utilization of the dedicated habitat conservation area by the sensitive species referenced in Special Condition 5.A.
- C. The applicant, or his successors or assigns, during the term of the development and home sales program of the subdivision, and the homeowners association following completion of subdivision home sales shall be responsible for the implementation, including, but limited to, any corrective actions of adverse conditions identified by the monitoring program pursuant to Special Condition 5.B.
- D. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review of, and approval by the Executive Director, a report by a professional arborist of the eucalyptus trees in Drainages 1, 2, 3, 4, and 5, that describes their current state and makes recommendations for their long-term arboreal management including for roosting and nesting.
- ~~E. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall revise the landscape plan, dated January 26, 2001, to indicate the planting location of twelve (12) arroyo willows in central Drainage 2 to close the present (farm road) gap in the riparian corridor and offset the unavoidable loss of four willows adjacent to the westerly farm road, which is proposed to be expanded to accommodate the internal subdivision street crossing of Drainage 2.~~

6. Riparian Corridor Protection

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, revised project plans that demonstrate that no development, including lot lines, shall be located

within 30 feet of the edge of any riparian vegetation associated with Streams 1, 2, and 3, or within 30 feet of the centerline of the streams where no riparian vegetation is present. For purposes of this permit condition, riparian vegetation shall be defined as any vegetation that requires or tolerates soil moisture levels in excess of that available in adjacent terrestrial areas and is typically associated with the banks, edges, or terrestrial limits of freshwater bodies, water courses, or surface emergent aquifers.

- B.** The ~~three~~two stream crossings authorized herein shall span the streams with no supports located within the riparian corridors. All construction activities, materials and equipment are prohibited from entering the riparian corridors and their respective buffer zones except as necessary for the construction of one road crossing each on Streams 1,~~2~~ and ~~3~~2. Prior to commencement of grading, the applicant shall install temporary construction fencing along the outer edge of all riparian buffer zones as shown on the approved revised site plan.

7. Cumulative Public Access Impact Mitigation

- ~~**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit evidence, for the review and approval of the Executive Director, that the development rights have been permanently extinguished on at least 124 existing legal lots such that the subdivision of property authorized herein shall not result in a net increase of existing legal lots within that geographical area. The lots shall be extinguished only in the Mid-Coast Region of San Mateo County, an area that is generally depicted on Exhibit 16 and that is primarily served by the segment of Highway 1 between its intersection with Highway 92 and Devil's Slide and/or by the segment of Highway 92 west of Highway 280. Each mitigation lot shall be an existing legal lot or combination of contiguous lots in common ownership and shall be zoned to allow development of a detached single-family residence. The legality of each mitigation lot shall be demonstrated by the issuance of a Certificate of Compliance by the City or County consistent with the applicable standards of the certified LCP and other applicable law.~~
- ~~**B.** For each development right extinguished in satisfaction of subdivision A of this permit condition, the applicant shall, prior to issuance of the coastal development permit execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space or scenic easement to preserve the open space and scenic values present on the property that is the source of the development right being extinguished and to prevent the significant adverse cumulative impact to public access to the coast that would result as a consequence of development of the property for residential use. Such easement shall include a legal description of the entire property that is the source of the development right being extinguished. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. Each offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.~~

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- ~~C. For each development right extinguished in satisfaction of subdivision A of this permit condition, the applicant shall, prior to issuance of the coastal development permit, also execute and record a deed restriction, in a form and content acceptable to the Executive Director, requiring the applicant to combine the property that is the source of the development right being extinguished with an adjacent already developed lot or with an adjacent lot that could demonstrably be developed consistent with the applicable certified local coastal program. The deed restriction shall include legal descriptions of all combined and individual lots affected by the deed restriction. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~
- ~~D. As an alternative to the method described in subsection B and C above, the applicant may instead, prior to issuance of the coastal development permit, purchase existing legal lots that satisfy the criteria in subsection A above and, subject to the review and approval of the Executive Director, dedicate such lots in fee to a public or private land management agency approved by the Executive Director for permanent public recreational or natural resource conservation purposes.~~

The applicant shall pay to the City the total sum of \$2,835,000 as a cumulative traffic mitigation contribution fee ("the in-lieu CTMC fee"). The in-lieu CTMC fee represent the payment of \$45,000 per lot, for each of the sixty-three parcels on which homes will be built. The in-lieu CTMC fee shall be used by the City for the purpose of acquiring and retiring development rights on existing legal parcels in the City.

The in-lieu CTMC fee shall be paid in the following manner: (1) a one-time amount of \$150,000 shall be paid to the City, after issuance of the permit by the Commission, at the time of the first recordation by the City of a final subdivision map for any phase of the Project in which at least one residential lot is included; (2) \$1,342,500 shall be paid within two years thereafter, or at the time of issuance of the first building permit by the City for a home on a new subdivided parcel or at the time of sale of the first such subdivided residential parcel, whichever occurs first; and (3) \$1,342,500 shall be paid within one year thereafter. The payment of the first \$1,342,500 shall fully vest Ailanto's rights to complete all of the homes approved hereby.

The applicant's responsibility to the Commission and the City to mitigate the cumulative traffic impacts of its project is discharged by payment of the in-lieu CTMC fee specified in this Special Condition and the costs specified in Special Condition Number 11, and no further traffic mitigation obligations or exactions will be imposed as part of satisfying the conditions of the City's vesting tentative subdivision map, any other City approval, or the permit. The Commission and the City assume the risk that the in-lieu CTMC fee may not be sufficient to achieve the retirement of development rights on a desired number of parcels. Correspondingly, the applicant recognizes that it is not entitled to any refund of any portion of this payment in the event that the payment exceeds the amount sufficient to retire development rights on a desired number of parcels, or any refund of the \$150,000 one-time payment under any circumstances.

In order to ensure payment of the in-lieu CTMC fee, prior to issuance of the MCDP, the applicant or any successor shall submit to the Executive Director for review and approval a standby letter of credit for the amount of the CTMC fee. The letter shall be from a lender who is sufficiently reputable to assure payment of the funds at the appropriate time. The Executive Director shall approve the letter of credit if the letter is consistent with this condition. After approval by the Executive Director and prior to issuance of the MCDP, the Applicant shall deposit the letter with the Commission. The letter of credit may be revoked by Ailanto only if (a) the in-lieu CTMC fee is paid in full; (b) the permit expires without commencement of development (which includes recordation of a final subdivision map); or (c) the applicant surrenders the permit and relinquishes all rights under it, and reverts any subdivision to conditions existing prior to approval of the permit (including merger of all subdivided parcels). As long as the applicant complies with these requirements, it may revoke the letter of credit under (c) for any reason. The letter of credit shall be interpreted to allow revocation only under the foregoing circumstances, and if the applicant or successor succeeds in revoking the letter or credit under other circumstances without Commission approval, this shall be deemed to be a violation of the permit. The letter of credit shall provide that the Commission may draw funds at any time a CTMC payment obligation under the Settlement Agreement is overdue by more than seven calendar days.

The applicant, the City and the Commission anticipate that the first final subdivision map for the project will be recorded within three years of approval of the permit and that the three payments specified in the second paragraph of this condition will be made within three years, five years, and six years respectively of that approval (“the Original Timeline”), although these deadlines may be postponed pursuant to the tolling provisions of Special condition No. 13. Any payments made after they would be due under the Original Timeline shall be increased proportionately to any increase in the median home price in San Mateo County between the due date under the Original Timeline and the time of payment. Median prices shall be based on figures obtained from the San Mateo County Association of Realtors.

8. Erosion Control

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall provide, for the review and approval of the Executive Director, an Erosion Control Plan to reduce erosion and, to the maximum extent practicable, retain sediment on-site during and after construction. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff and its ability to carry sediment by diverting incoming flows and impeding internally generated flows, and retain sediment that is picked up on the project site through the use of sediment-capturing devices. The plan shall also limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters. The Erosion Control Plan shall incorporate the Best Management Practices (BMPs) specified below.

1. Erosion & Sediment Source Control

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- a. Sequence construction to install **sediment-capturing devices** first, followed by runoff control measures and runoff conveyances. Land clearing activities should only commence after the minimization and capture elements are in place.
 - b. Time the clearing and grading activities to avoid the rainy season (October 15 through April 30).
 - c. Minimize the area of bare soil exposed at one time (phased grading).
 - d. Clear only areas essential for construction.
 - e. Within five days of clearing or inactivity in construction, stabilize bare soils through either non-vegetative BMPs, such as mulching or vegetative erosion control methods such as seeding. Vegetative erosion control shall be established within two weeks of seeding/planting.
 - f. Construction entrances should be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
 - g. Control wind-born dust through the installation of wind barriers such as hay bales and/or sprinkling.
 - h. Soil and/or other construction-related material stockpiled on site shall be placed a minimum of 200 feet from all wetlands and drain courses. Stockpiled soils shall be covered with tarps at all times of the year.
 - i. Excess fill shall not be disposed of in the Coastal Zone unless authorized through either an amendment to this coastal development permit or a new coastal development permit.
- 2. Runoff Control and Conveyance**
- a. Intercept runoff above disturbed slopes and convey it to a permanent channel or stormdrains by using earth dikes, perimeter dikes or swales, or diversions. Use check dams where appropriate.
 - b. Provide protection for runoff conveyance outlets by reducing flow velocity and dissipating flow energy.
- 3. Sediment-Capturing Devices**
- a. Install stormdrain inlet protection that traps sediment before it enters the storm sewer system. This barrier could consist of filter fabric, straw bales, gravel, or sand bags.
 - b. Install sediment traps/basins at outlets of diversions, channels, slope drains, or other runoff conveyances that discharge sediment-laden water. Sediment traps/basins shall be cleaned out when 50% full (by volume).
 - c. Use silt fence and/or vegetated filter strips to trap sediment contained in sheet flow. The maximum drainage area to the fence should be 0.5 acre or less per 100 feet of fence. Silt fences should be inspected regularly and sediment removed when it reaches 1/3 the fence height. Vegetated filter strips should have relatively flat slopes and be vegetated with erosion-resistant species.

4. Chemical Control

- a. Store, handle, apply, and dispose of pesticides, petroleum products, and other construction materials properly.
 - b. Establish fuel and vehicle maintenance staging areas located away from all drainage courses, and design these areas to control runoff.
 - c. Develop and implement spill prevention and control measures.
 - d. Provide sanitary facilities for construction workers.
 - e. Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents should not be discharged into sanitary or storm sewer systems. Washout from concrete trucks should be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water.
 - f. Provide adequate disposal facilities for solid waste, including excess asphalt, produced during construction.
 - g. Develop and implement nutrient management measures. Properly time applications, and work fertilizers and liming materials into the soil to depths of 4 to 6 inches. Reduce the amount of nutrients applied by conducting soil tests to determine site nutrient needs.
- B.** The applicant shall undertake development in accordance with the final erosion control plans approved by the Executive Director. No proposed changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. The applicant shall be fully responsible for advising construction personnel of the requirements of the Erosion Control Plan.
- C. Erosion Control Maintenance.** All of the above described erosion control measures shall be maintained pursuant to the following requirements.
1. All BMP traps/separators and/or filters shall be cleaned at minimum prior to the onset of the storm season and no later than October 15th each year.
 2. Sediment traps/basins shall be cleaned out at any time when 50% full (by volume).
 3. Sediment shall be removed from silt fences at any time when it reaches 1/3 the fence height.
 4. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
 5. Non-routine maintenance activities that are expensive but infrequent, such as detention basin dredging, shall be performed on as needed based on the results of the monitoring inspections described above.
- D. Erosion Control Monitoring.** Throughout the construction period, the applicants shall conduct regular inspections of the condition and operational status of all structural BMPs required by the approved Erosion Control Plan. The applicant shall report the results of the inspections in writing to the Executive Director prior to the start of the rainy season

(no later than October 15th), after the first storm of the rainy season, and monthly thereafter until April 30th for the duration of the project construction period. Major observations to be made during inspections and reported to the Executive Director shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the City of Half Moon Bay shall be allowed to enter the property as needed to conduct on-site inspections throughout the construction period.

9. Storm-water Pollution Prevention

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final **Storm-water Pollution Prevention Plan (SWPPP)**. The SWPPP shall demonstrate that the approved development shall maintain post-development peak runoff rate and average volume at levels equal to pre-development levels, and reduce the post-development loadings of Total Suspended Solids (TSS) so that the average annual TSS loadings are no greater than pre-development loadings. The SWPPP shall incorporate the Best Management Practices (BMPs) described below.

1. Minimize Creation of Impervious Surfaces

- a. Design residential streets for the minimum required pavement widths needed to comply with all zoning and applicable ordinances to support travel lanes, on-street parking, emergency, maintenance and service vehicle access, sidewalks, and vegetated open channels.
- b. Minimize the number of residential street cul-de-sacs and incorporate landscaped areas to reduce their impervious cover. The radius of cul-de-sacs should be the minimum required to accommodate emergency and vehicle turnarounds. Alternative turnarounds shall be employed where allowable.
- c. Avoid curb and gutter along driveways and streets where appropriate.
- d. Incorporate landscaping with vegetation or other permeable ground cover in setback areas between sidewalks and streets.
- e. Use alternative porous material/pavers (e.g., hybrid lots, parking groves, permeable overflow parking, crushed gravel, mulch, cobbles) to the extent practicable for sidewalks, driveways, parking lots, or interior roadway surfaces.
- f. Reduce driveway lengths, and grade and construct driveways to direct runoff into adjacent landscaped areas.
- g. Direct rooftop runoff to permeable areas rather than driveways or impervious surfaces in order to facilitate infiltration and reduce the amount of storm-water leaving the site.

2. Roads and Parking Lots

- a. Install vegetative filter strips or catch basin inserts with other media filter devices, clarifiers, grassy swales and berms, or a combination thereof to remove or

mitigating oil, grease, hydrocarbons, heavy metals and particulates from storm-water draining from all roads and parking lots.

- b. Roads and parking lots should be vacuum swept monthly at a minimum, to remove debris and contaminant residue.

3. Landscaping

- a. Native or drought tolerant adapted vegetation should be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
- b. Where irrigation is necessary, the system must be designed with efficient technology. At a minimum, all irrigation systems shall have flow sensors and master valves installed on the mainline pipe to ensure system shutdown in the case of pipe breakage. Irrigation master systems shall have an automatic irrigation controller to ensure efficient water distribution. Automatic irrigation controllers shall be easily adjustable so that site watering will be appropriate for daily site weather conditions. Automatic irrigation controllers shall have rain shutoff devices in order to prevent unnecessary operation on rainy days.
- c. All BMP traps/separators and/or filters shall be cleaned prior to the onset of the storm season and no later than October 15th each year. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
- d. Non-routine maintenance activities that are expensive but infrequent, such as detention basin dredging, shall be performed on as needed based on the results of the monitoring inspections described below.

B. Storm-water Pollution Prevention Monitoring. The applicant shall conduct an annual inspection of the condition and operational status of all structural BMPs provided in satisfaction of the approved SWPPP including the detention basin. The results of each annual inspection shall be reported to the Executive Director in writing by no later than June 30th of each year following the commencement of construction. Major observations to be made during inspections and reported to the Executive Director shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the City of Half Moon Bay shall be allowed to enter the property as needed to conduct on-site inspections of the detention basin and other structural BMPs.

C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director a **Water Quality Monitoring Plan (WQMP)**. The WQMP shall be designed to evaluate the effectiveness of the SWPPP to protect the quality of surface and groundwater and shall provide the following:

- 1. The WQMP shall specify sampling locations appropriate to evaluate surface and groundwater quality throughout the project site, including, but not limited to all major storm drains.

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2. The WQMP shall specify sampling protocols and permitted standards for all identified potential pollutants including, but not necessarily limited to: heavy metals, pesticides, herbicides, suspended solids, nutrients, oil, and grease.
 3. Beginning with the start of the first rainy season (October 15 - April 30) following commencement of development and continuing until three years following completion of all grading, landscaping and other earth disturbing work, surface water samples shall be collected from the specified sampling locations during the first significant storm event of the rainy season and each following month through April 30. Sampling shall continue thereafter in perpetuity on an annual basis during the first significant storm event of the rainy season.
 4. Results of monitoring efforts shall be submitted to the Commission upon availability.
- D.** If any water quality standards specified in the WQMP are exceeded, the applicant shall assess the potential sources of the pollutant and the potential remedies. If it is determined based on this assessment that applicable water quality standards have not been met as a result of inadequate or failed BMPs, corrective actions or remedies shall be required. If potential remedies or corrective action constitute development, as defined in Section 30106 of the Coastal Act, an amendment to this permit shall be required.
- E. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction over the project site, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

10. Grading Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a **Final Grading Plan** specifying:
1. The respective quantities of cut and fill and the final design grades and locations for all project related grading, including building foundations, streets, drainage, and utilities.
 2. The phasing of all grading during construction.
- B.** Grading shall be conducted in strict conformity to the approved Grading Plan, Erosion Control Plan, SWPPP, and habitat protection measures specified in Special Conditions 6, 9 and 10.

11. Project Site Access

- ~~**A.** Permanent vehicular and pedestrian access to serve the subdivision shall be provided along either the Bayview Drive right of way, from Highway 1, or the Foothill Boulevard right of way, from Highway 92. The applicant shall pay its fair share for signalization and associated highway intersection lane improvements for the selected permanent entry~~

~~roadway. The permanent entry roadway shall not be located in, or within 100 feet of, a wetland, as defined in Half Moon Bay LCP Zoning Ordinance Section 18.38.020.E, or in, or within 30 feet of a riparian area, as defined in Half Moon Bay LCP Zoning Ordinance Section 18.38.020.B, provided that improvements to the existing Foothill Boulevard right-of-way segment adjacent to the easterly side of Half Moon Bay High School may occur within the right-of-way if existing adjacent riparian vegetation or wetland areas outside the right-of-way are protected. If Foothill Boulevard is the permanent entry roadway, it shall be designed and constructed as a two-lane street (with a sidewalk and bike lane) to serve the subdivision project, adjacent residences and ranches, and as an emergency additional entry to Half Moon Bay High School, but shall not be connected to Terrace Avenue, Bayview Avenue, or Grandview Avenue.~~

- ~~**B.** Until completion of the permanent entry road to the subdivision described in Special Condition 11A above, Terrace Avenue may be used as vehicular access for up to the first 40 homes in the subdivision. Following completion of the permanent entry road to the subdivision, an emergency/fire department gate shall be installed across Terrace Avenue immediately east of the area in the subdivision project occupied by the five (5) trailhead parking spaces indicated on Exhibit 14, provided that the public access walkway to the "loop Trail" (as shown on Exhibit 14) shall remain open and be signed for public use, Terrace Avenue to the east of the gate shall thereafter be used for emergency vehicular access only.~~
- ~~**C.** During Project construction, construction vehicle and construction worker traffic may utilize Terrace Avenue to access the Project site, provided that if either the Bayview Drive right-of-way, from Highway 1, or the Foothill Boulevard right-of-way, from Highway 92, is available for use by the applicant then such accessway other than Terrace Avenue shall be used to gain construction access to the subdivision project site. Temporary improvements to either right-of-way other than Terrace Avenue are permitted to accommodate the construction traffic, provided that adjacent riparian vegetation or wetland areas shall be fenced and screened to avoid intrusion by either equipment or materials.~~

Terrace Avenue may be used as the vehicular access route for the Project, and for required development and construction. The applicant shall be responsible for repairing any damage to Terrace Avenue caused by development and construction. In addition to the in-lieu CTMC fee required by Special Condition Number 7, the applicant shall also pay an in-lieu fee in an amount equal to the costs of signalization, and the widening of Highway 1 necessary therefor, at the intersection of Terrace Avenue and Highway 1, up to the standards therefor of the California Department of Transportation. The money shall be expended to mitigate traffic impacts from the approved Pacific Ridge subdivision by either funding improvements to the intersection of California State Highway One and Terrace Avenue, located in the City, or funding alternative traffic improvements in the vicinity that have been approved for this funding by the Executive Director of the Commission.

12. Raptor Protection

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a biological survey conducted by a qualified biologist/ornithologist that demonstrates that no development

involving physical construction, including grading, shall occur within 100 feet of any nesting habitat for any state or federally listed species of raptor.

13. Expiration. If development (which includes recordation of a final subdivision map for any portion of the project) has not commenced, this permit will expire three years following approval by the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date. The expiration date of this permit shall be tolled, without regard to the length of time, for the same time as the time during which litigation is pending challenging the validity of that Settlement Agreement between the applicant, the Commission and the City of Half Moon Bay, or challenging the Commission's or the City's approval of that Settlement Agreement or the permit, or challenging the coastal development permits described in Paragraph 7 of that Settlement Agreement. The expiration date of this permit shall also be tolled during any period of time that an administrative appeal is pending before the Commission involving either of these coastal development permits, and for the time necessary to obtain CalTrans approval for construction of the improvements authorized by the Terrace CDP, all as specified in Paragraph 7 of that Settlement Agreement. In addition to these tolling provisions, the Commission shall grant further extensions of the permit unless there are changed circumstances affecting the consistency of the permit with the LCP. See 14 Cal. Code Regs. Section 13169. Moratoria and incremental worsening of regional traffic conditions shall not constitute "changed circumstances" precluding permit extensions. Litigation shall be considered "pending" for purposes of this condition from the earliest date on which a lawsuit or lawsuits is or are commenced until the date on which: (a) a final judgment or decree has been entered in any and all such lawsuit(s) and all applicable judicial appeal periods with respect thereto have expired, with no pending or contested actions, (b) a request for voluntary dismissal of any and all such lawsuit(s) has been filed and dismissal has been entered by the Court, or (c) a settlement has been entered into by the parties to any and all such lawsuit(s) on mutually agreeable terms and conditions.

14. Deed Restriction. Prior to issuance of the permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

15. Settlement Agreement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence that the Settlement Agreement is final and binding on all parties, or shall submit a letter stating that the applicant relinquishes all rights to terminate the Settlement Agreement.

16. Water Supply. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT

PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a water supply plan that has been approved by the Coastside County Water District. The plan shall show that water will be supplied to the development via a pipeline under Terrace Avenue that is the minimum size necessary to serve the Pacific Ridge development only. If water service is proposed to be provided to the development via a pipeline from the Carter Hill tanks or the Carter Hill pipeline, or from any other location besides Terrace Avenue, a Commission amendment to this coastal development permit will be required. Consistent with paragraph 7(e) of the settlement agreement, if a water line from the Carter Hill tanks or pipeline is proposed to supply the project, the City of Half Moon Bay will require a coastal development permit.

17. Construction Responsibilities. The permittee shall comply with the following construction-related requirements:

- A. Construction equipment and worker vehicles shall be staged and parked on the project site.
- B. The applicant shall notify the City 24 hours in advance if more than 25 worker vehicles are to exit the site during the PM peak-hour, and reimburse the City for the cost of any resulting traffic controls at the intersection of Terrace Avenue and Highway 1.
- C. The applicant shall maintain Terrace Avenue free of dirt and debris throughout project construction.
- D. Except in cases of emergency, heavy construction vehicles shall only access the site between 10:00 a.m. and 3:00 p.m.
- E. The applicant shall install speed bumps on Terrace Avenue, if required by the City.
- F. The applicant shall pay for any repairs required due to the construction traffic.

2.0 FINDINGS AND DECLARATIONS

[NOTE: The full text of the LCP, Coastal Act and other policies and regulations referenced herein are attached as Appendix C of this report.]

This staff report addresses only the coastal resource issues affected by the modified development proposal, provides recommended special conditions to reduce and mitigate significant impacts to coastal resources caused by the modified development proposal in order to achieve consistency with the City of Half Moon Bay Local Coastal Program, and provides findings for conditional approval of the amended development. All other analysis, findings, and conditions related to the originally permitted development, except as specifically affected by the current permit amendment request and addressed herein, remain as stated within the staff report for the original permit approval adopted by the Commission on August 9, 2001.

2.1 Standard of Review

The entire City of Half Moon Bay is within the California coastal zone. The City has a certified Local Coastal Program (LCP). Section 30604(b) states that after certification of a local coastal

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program, a coastal development permit shall be issued if the issuing agency or the Commission on appeal finds that the proposed development is in conformity with the certified local coastal program. Pursuant to Policy 1-1 of the City's certified Land Use Plan (LUP), the City has adopted the policies of the Coastal Act (sections 30210 through 30264) as the guiding policies of the LUP. Policy 1-4 of the City's LUP states that prior to issuance of any development permit, the [Commission] shall make the finding that the development meets the standards set forth in all applicable LUP policies. Thus, the LUP incorporates the Chapter 3 policies of the Coastal Act. These policies are therefore included in the standard of review for the proposed project.

The project site also is located within the Planned Development Area (PUD) designated in the City's LUP as the Dykstra Ranch PUD. Section 9.3.7 of the LUP specifically addresses the development of the Dykstra Ranch PUD, and includes "Proposed Development Conditions" for the development. Section 18.37.020.C of the City's Zoning Code states in relevant part:

New development within Planned Development Areas shall be subject to development conditions as stated in the Local Coastal Program Land Use Plan for each Planned Development...

Therefore, Proposed Development Conditions (a) through (h) contained in LUP Section 9.3.7 are included in the standard of review for this proposed project and are hereinafter referred to as LUP Policies 9.3.7(a) through 9.3.7(h).

LUP Policy 9.3.7(a) requires a specific plan to be prepared for the entire [Dykstra Ranch Planned Development] area which incorporated all of the stated conditions and conforms to all other policies of the Land Use Plan. Accordingly, the City approved a specific plan for the Dykstra Ranch PUD on January 4, 1994, and subsequently incorporated this PUD plan as Chapter 18.16 of the Zoning Code – Dykstra Ranch PUD Zoning District. The Commission certified the PUD in April 1996. However, in accordance with the definitions provided in Zoning Code Section 18.02.040, the LCP uses the terms "Specific Plan" and "Planned Unit Development Plan" synonymously. Zoning Code Section 18.15.045.C states that a Planned Unit Development Plan shall expire two years after its effective date unless a building permit has been issued, construction diligently pursued, and substantial funds invested. Neither a coastal development permit (CDP) nor a building permit has been issued for the proposed project. Therefore, by its own terms the Dykstra Ranch PUD Plan/Specific Plan expired in April of 1998, two years after the Commission certified the PUD and it became effective in the City. Because the specific plan has expired, Zoning Code Chapter 18.16 is not included in the standard of review for this coastal development permit application.

LUP Policy 9-8 states that areas designated in the LUP as PUD shall be planned as a unit and that preparation of specific plans may be required for one or more separate ownerships, individually or collectively, when parcels comprising a PUD are in separate ownerships. LUP Policy 9-14 states that where portions of a PUD are in separate ownership, approval may be granted for development of a parcel or group of parcels within the PUD provided that the City has approved a specific plan for the PUD district. The Dykstra Ranch PUD District is comprised of two lots under a single ownership, and the Pacific Ridge Development represents a development plan for the entire PUD district. Therefore, pursuant to LUP Policies 9-8 and 9-14, a specific plan is not required as a prerequisite to the development of the Dykstra Ranch PUD. Although the specific plan required to be prepared under LUP Section 9.3.7(a) has expired, the

Commission finds the development in conformance with the LCP, including the proposed development conditions for the PUD, without preparation of a new specific plan.

2.2 Project Location and Description

The proposed project is within the Dykstra Ranch Planned Unit Development (PUD) area, located on a coastal terrace east of Highway 1 and north of State Route 92 at the eastern edge of the City of Half Moon Bay, San Mateo County, approximately one mile east of the Pacific Ocean (Exhibit 6). A mix of suburban development and vacant former agricultural lands lies between the site and Highway 1. Half Moon Bay High School is located on the southwest boundary of the site (Exhibit 7).

The elevation of the property ranges from about 245 feet in the southeast portion of the project area down to about 45 or 50 feet in the northwest corner. The western portion of the project area contains gentle slopes in the five- percent range. Some ridges, particularly in the northeast, are steeply sloped, approaching 28 percent in some cases. The land has been used for grazing cattle and has a history of barley cultivation.

Soils on the site consist of natural deposits of alluvium and artificial fill. The alluvial soils display slight to moderate erosion potential. Soils on the rolling hills in the northwestern part of the site also pose slight to moderate erosion potential. The upland soils on the hills, along the northeastern boundary of the site are moderately to highly erodable. The site contains artificial fills for an earthen dam and an embankment and drainage channel berms, relating to previous agricultural activities. Approximately 36 acres or 32 percent of the site contain prime agricultural soils (Exhibit 8).

The site lies in the transition area between the foothills along the western flank of the Santa Cruz Mountains and the coastal plain in Half Moon Bay. The closest active earthquake faults are located approximately five miles northeast of the site. The general area is a seismically active region, and is subject to strong seismic ground shaking.

The project as originally approved by the City was to subdivide the 114-acre site into 197 residential lots. Subsequent to the Commission's determination of substantial issue, the applicant revised the project for purposes of the de novo permit review. These revisions included reduction from 197 to 145 lots, relocation of a portion of the main "loop road" to avoid encroachment into the pond buffer area, and additional wetland and riparian corridor protections (Exhibit 9). On January 16, 2001, in an effort to address some of the concerns raised during the December 13, 2000 Commission hearing, the applicant again amended the permit application and provided additional information. The revisions included, among other changes, a reduction in the level of development located in and adjacent to the environmentally sensitive habitat area north of Stream 3. The applicant submitted further revisions to the Commission staff on January 26, 2001 eliminating another five lots from the habitat area. This decrease in development in and adjacent to environmentally sensitive habitat areas was accomplished by shifting much of the proposed development to the southern half of the site and reducing the number of proposed residential lots from 145 to 134 (Exhibit 2).

The project approved by the Commission on August 9, 2001 comprised a subdivision of two parcels totaling 114 acres into 126 residential lots and one open space parcel and the construction of 126 single-family homes, a neighborhood park, streets and infrastructure.

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The modified development proposal currently before the Commission eliminates the previously proposed loop road from the northern portion of the site, which, if constructed, would have created a significant barrier within migration corridors for San Francisco garter snakes and California red-legged frogs and would have required three stream crossings. The current plan also eliminates the lots located north of Stream 3, and reduces the total number of proposed residential lots from 134 to 63. Ailanto proposes to develop the 63 lots with two-story houses ranging in size from 4,168 to 4,774 square feet. Infrastructure improvements to serve the development include privately maintained subdivision streets and underground lines for water, power, and sewer services. The applicant proposes to construct a new 10" water main from Highway 1 to the site, along Terrace Avenue. Ailanto has paid assessments to the Sewer Authority Midcoast and to the Coastside County Water District to assure sewer and water capacity to serve the development.

As originally proposed to the City the project included the construction of Foothill Boulevard linking the site to State Route 92 to the south and the extension of Grand View Boulevard linking the development to Highway 1 to the west. Ailanto subsequently revised the project to provide access to the development from Highway 1 through an extension of Terrace Avenue, an existing neighborhood street that abuts the development site to the west (Exhibit 7). Consistent with the settlement agreement, the applicant proposes to pay an in-lieu fee in an amount equal to the costs of signalization, and the widening of Highway 1 necessary for the signalization, at the intersection of Terrace Avenue and Highway 1, up to the standards of the California Department of Transportation. The money will be expended to mitigate traffic impacts from the approved Pacific Ridge subdivision by either funding improvements to the intersection of California State Highway One and Terrace Avenue or funding alternative traffic improvements in the vicinity that have been approved for this funding by the Executive Director of the Commission.

Consistent with the terms of both the modified development proposal and the settlement agreement, the applicant proposes to dedicate easements over 1.9 acres of the site for a public park, and over 85.7 acres of the site for open space. A public trail would cross through a portion of the open space east of the development, as shown on Exhibit 4. A homeowners association would maintain subdivision streets, sidewalks, streetlights, wetlands, the pond, and open space amenities.

There are currently no plans to improve the public park and the trail is a short loop with views of the ocean. Because the project site is located inland of Highway 1, almost one mile from the ocean, and because the amenities will be limited, staff expects the park and trail to be used primarily by residents of the Pacific Ridge subdivision and the Terrace/Highland neighborhood. However, there would be five parking spaces, located near the entrance of the project, to accommodate visitors to the park and trail who travel from outside the neighborhood.

2.3 Traffic Impacts

LCP Policies

The Half Moon Bay LCP specifies that new development shall not be permitted in the absence of adequate infrastructure including roads such as Highways 1 and 92. LUP Policy 9-2 states in relevant part:

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No permit for development shall be issued unless a finding is made that such development will be served upon completion with water, sewer, schools, and road facilities... [Emphasis added.]

LUP Policy 9-4 states in relevant part:

*Prior to issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services and resources are available to serve the proposed development... **Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan.*** [Emphasis added.]

LUP Policy 10-4 states:

The City shall reserve public works capacity for land uses given priority by the Plan, in order to assure that all available public works capacity is not consumed by other development and control the rate of new development permitted in the City to avoid overloading of public works and services.

LUP Policy 10-25 states:

The City will support the use of Level of Service C as the desired level of service on Highways 1 and 92, except during the peak two-hour commuting period and the ten-day average peak recreational hour when Level of Service E will be acceptable.

In addition, pursuant to LUP Policy 1-1, the City has adopted the Chapter 3 policies of the Coastal Act as the guiding policies of the LUP. Accordingly, the City's LUP adopts Coastal Act Sections 30210, 30250 and 30252, which also require that development shall not interfere with the public's ability to access the coast and shall only be approved in areas with adequate public services.

Coastal Act Section 30252 states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast....

Discussion

The LUP contains several policies that require new development to be served by adequate road facilities to serve priority uses such as public access and recreation, including Policies 9-2, 9-4, 10-4, and 10-25. These LCP policies carry out the requirements of Coastal Act Sections 30250(a) and 30252, which the City has adopted as guiding policies to the LCP. Section 30250(a) requires that new development be located in areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Section 30252 states that the amount and location of new development should maintain and enhance public access to the coast. LUP Policy 9-4 requires that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP. Policy 10-4 states that the City shall reserve public works capacity for priority land uses including public access and recreation from consumption by other non-priority uses such as residential

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development. LUP Policy 10-25 designates LOS C as the desired level of service on Highways 1 and 92 except during the weekday and weekend peak-hours when LOS E may be accepted.

Without appropriate mitigation, the Commission could refuse to allow a new subdivision based upon the lack of adequate public services (road capacity) under LUP Policy 9-4, which reads in relevant part:

“Lack of available service or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan.”

The Commission previously approved a subdivision for 126 residences, but required the applicant to retire development rights for an equivalent number of lots because of the adverse cumulative impacts to traffic capacity and thus public access along the Mid Coast. Absent the proposed mitigation, the proposed subdivision associated with the modified development proposal would create additional demand on area highways for a non-priority use in excess of their current and/or future capacity. As summarized below, the reduced subdivision of 63 residential units will still contribute to adverse cumulative impacts that must be mitigated.

Cumulative Impact Analysis

Cumulative impact analysis is based on an assessment of project impacts combined with other projects causing related impacts (14 CCR § 15355). In accordance with CEQA, cumulative impact analysis must consider reasonably foreseeable future projects or activities. The CEQA guidelines identify two sources of data that can be consulted for the purpose of evaluating the significant cumulative impacts of development (14 CCR § 15130(b)):

(1) Either:

(A) A list of past, present and probable future projects producing related or cumulative impacts, including those projects outside the control of the agency, or

A summary of projections contained in an adopted general or related planning document or in a prior environmental document which has been adopted or certified, which describes or evaluates regional or area wide conditions contributing to the cumulative impact. [Emphasis added.]

“Probable future projects” may be limited to... projects included in an adopted capital improvements program, general plan, regional transportation plan, or other similar plan... [Emphasis added.]

CEQA Regulation Section 15130(b)(1)(B) provides an alternative method to determine the impacts of other projects causing related impacts that relies on adopted planning documents. This method also supports the use of the Half Moon Bay and San Mateo County LCPs and the San Mateo County Countywide Transportation Plan as relevant planning documents for the purpose of assessing the potential cumulative impacts of the proposed development.

Existing Conditions

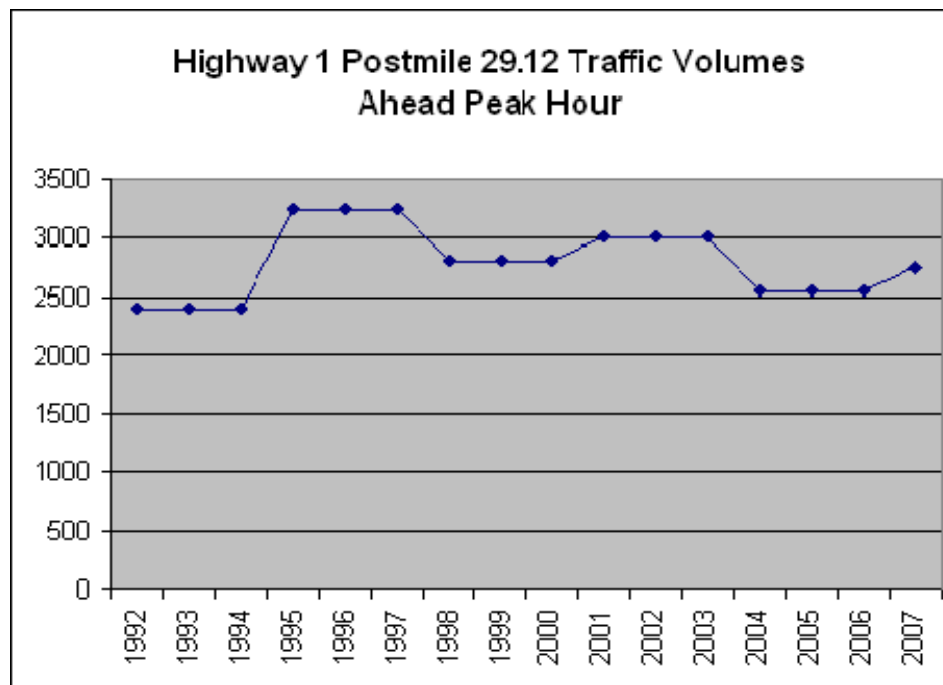
The 2007 San Mateo County Congestion Management Program (CMP) shows the existing service levels for roadway segments of Highways 1 and 92 during the peak afternoon commute,

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as summarized below.¹ The level of service (LOS) shown represents the most congested section of each roadway segment.²

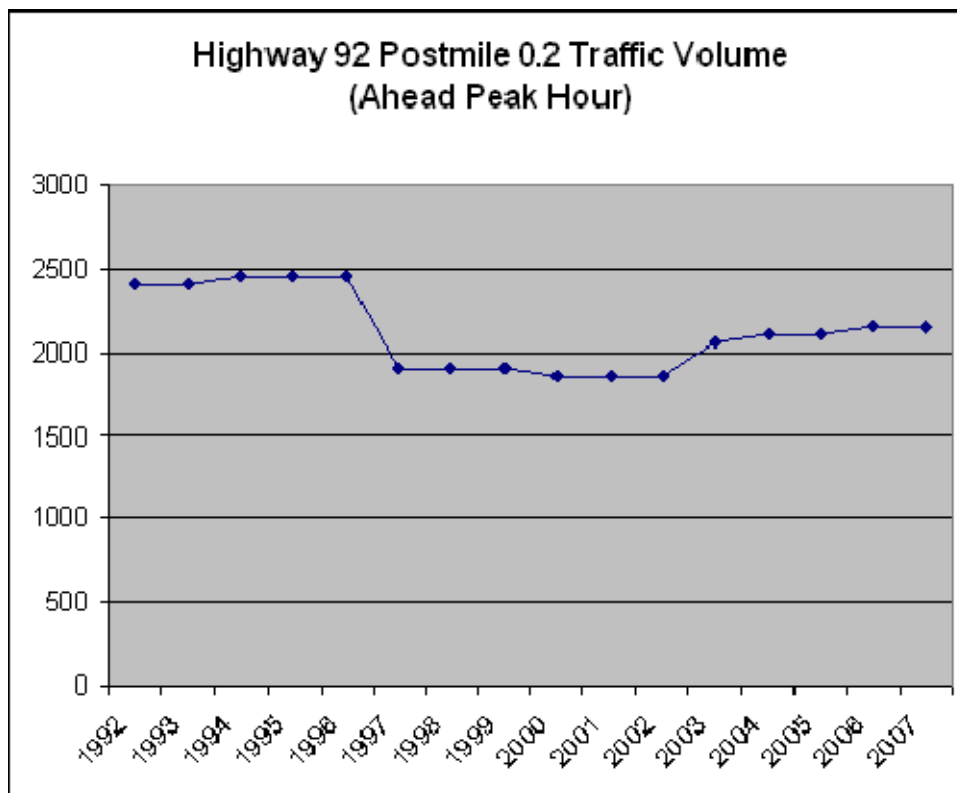
<i>ROADWAY SEGMENT</i>	LOS
Highway 92 (1 to 280)	LOS "E"
Highway 1 (Miramontes to Frenchman's sCreek)	LOS "E"
Highway 1 (Frenchman's Creek to Linda mar, Pacifica)	LOS "D"
Highway 1 (Pacifica to San Francisco)	LOS "F"

As shown, existing congestion levels for Highway 92 and Highway in two critical segments are at the maximum allowed LOS levels under the LUP (LOS E). In recent years, traffic volumes have been greater. Traffic volume trends for two mile points on Highways One and 92 are shown below.



¹ City/County Association of Governments of San Mateo County, *Final Congestion Management Program of 2007*.

² Fehr & Peers, *San Mateo County Congestion Management Program 2007 Monitoring Report* (October 2007).



Future Impacts

The most recent Countywide Transportation Plan (CTP) predicts the impact of potential development on highway congestion throughout San Mateo County. This report projects increases in the traffic volumes from 1990 to 2010 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 Coastsides and the continued pattern of Coastsiders out-commuting to jobs in San Francisco and on the Bayside.”³ The report corroborates 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 expected future demands of development.

Specifically, according to the CTP, most of the key travel routes along Highway 92 and Highway 1 will be at LOS “F” by 2010. The CTP shows the projected (2010) Level of Service (LOS) measures for the most congested segments of Highways 1 and 92 during the peak afternoon commute hours as summarized below.

ROADWAY SEGMENT	LOS
Highway 92 (1 to 280)	LOS “F”
Highway 1 (Miramontes to El Granada)	LOS “F”
Highway 1 (El Granada to Montara)	LOS “E”

³ San Mateo County, *Countywide Transportation Plan*, (April 2001).

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Highway 1 (Montara to Pacifica)	LOS "F"
Highway 1 (Pacifica to San Francisco)	LOS "F"

While Highway 1 may be improved in the future, the potential for increased capacity is limited especially outside of Half Moon Bay. Approximately 10 miles north of the City, in San Mateo County, Highway 1 passes through the "Devil's Slide" area. Caltrans is currently constructing a tunnel to bypass Devil's Slide. The new tunnel will improve operations of the highway in the section by preventing slide-related delays and closures, but the width of the tunnel will only allow one lane in each direction consistent with Coastal Act Section 30254. Construction of additional lanes to provide additional capacity is therefore not an option in the Devil's Slide area. (The Coastal Commission approved San Mateo County LCP Amendment 1-96 on January 9, 1997 providing for the tunnel alternative.)

Highway 92 runs east of the City to Highway 280 traversing steep rugged terrain. Recently, a widening project was completed in the City of Half Moon Bay that may alleviate congestion over the longrun, but there is little basis for concluding that the severe congestion outside of the city will be alleviated. Because of the steep slopes, slow-moving vehicles delay eastbound traffic, and highway widening is restricted due to environmental resource issues.

There are approximately 2,500 existing undeveloped small lots within the City. Each of these lots could potentially be developed with at least one single-family residence. Currently, Measure A restricts residential growth in Half Moon Bay to 3 percent. If the Measure D one to 1.5 percent growth restriction approved by Half Moon Bay voters is implemented through an amendment to the LCP, the rate of buildout would be slowed. However, neither of these growth rate restrictions change the ultimate buildout level allowed. In addition, any new subdivisions would create increased buildout potential.

New development in the unincorporated Midcoast areas of San Mateo County will also add to cumulative impacts to Highways 1 and 92. According to the County's recent LCP update submittal, the proposed Midcoast buildout estimate is 6,757 – 7,153 units (households), approximately 1,786 units more than the population assumed by the CTP. Therefore, the LOS levels for Highways 1 and 92 could be worse than what is projected by the CTP. In any event, there is no question that that addition of 63 new residential units, in conjunction with foreseeable buildout in the Midcoast, will result in significant adverse cumulative impacts to the Highway capacities that serve the Ailanto development.

Because of the limited ability to increase the capacity of Highways 1 and 92, and because existing buildout potential will itself result in more congestion and LOS conditions that are unacceptable under the LCP, the creation of new lots through subdivisions must be carefully considered. Further, because there are no alternative access routes to and along the coastline in this area of the coast, 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 project-specific and cumulative impacts to public access, and would therefore be inconsistent with the Half Moon Bay LCP unless mitigated through the retirement of development rights.

One method available in which the significant adverse cumulative impacts of new subdivisions within the City to the highway congestion could be avoided is to simply retire existing legal lots of record to mitigate for created lots. This mechanism would prevent the overall buildout level within the City from increasing. Since any existing legal lot is potentially developable, the retirement of existing legal lots at any location within the City, including both infill lots and antiquated subdivisions, would be sufficient to mitigate the significant adverse cumulative impacts of a proposed subdivision. Since development anywhere within the San Mateo County Mid-Coast contributes to traffic congestion on Highways 1 and 92, retirement of development rights anywhere in this region would offset the significant adverse cumulative impacts of the Pacific Ridge development. Thus, the proportional retirement of development rights on any of the several thousand existing undeveloped legal lots within the Mid-Coast region could serve to offset the significant adverse cumulative impacts of the modified development proposal. Lot retirement was the approach taken recently in the appeal of the Caroustie subdivision in which the Commission found no substantial issue (A-2-HMB-07-034) as well as the approach taken by the Commission in its original action approving A-1-HMB-99-022.

Another way in which the significant adverse cumulative impacts of new subdivisions within the City to the highway congestion could be avoided is through a transfer of development credit program which allows the overall buildout level within the City to be reduced by transferring the development rights of existing undeveloped small lots to unsubdivided areas. In a December 15, 1999 preliminary assessment of the feasibility of establishing a TDC program in Half Moon Bay, the City's consultant identified 663 parcels and 1,453 potential transfer or donor sites in four PUD districts in the City.⁴ These sites were identified as particularly desirable donor sites for a TDC program to achieve a number of planning goals. Most of these donor lots do not meet the 5,000-square-foot minimum parcel size required under the city's zoning code and are contained in paper subdivisions that are not served by roads or other infrastructure. This represents only a small fraction of the tens of thousands of existing substandard lots in paper subdivisions throughout the San Mateo County Mid-Coast. The city's TDC feasibility study also considered a number of factors to set a value for the transfer of development credits available in the donor sites considered. The study recommends combining the 1,453 substandard lots in accordance with the zoning code minimum parcel size to provide a total of 432 development credits at a value of \$32,500 per credit.

Rather than directly retire lots of record as was required by the Commission's original approval of the Ailanto project, under the terms of both the modified development proposal and settlement agreement, the applicant proposes to pay the City an in-lieu fee of \$2,835,000, or \$45,000 per lot, to acquire and retire development rights on existing legal parcels in the City. The \$45,000 fee, which will be paid in installments three, five and six years after approval of the permit, is roughly equal to the \$32,500 called for in the City's study, when adjusted for inflation. In addition, consistent with the settlement agreement the applicant proposes that any payments made after this timeline would be increased based on the median home price in San Mateo County. Therefore, the fee proposed by the applicant and reflected in the settlement agreement is adequate to mitigate the creation of the 63 new residential lots. In order to further implement

⁴ J. Laurence Mintier & Associates, *Preliminary Assessment of the Feasibility of Establishing a Transfer of Development Rights Program in Half Moon Bay* (December 15, 1999), 21.

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this mitigation, the settlement requires the City to seek to amend its LCP to include a lot retirement program. Any expenditures of the in-lieu fee made prior to amending the LCP, require the written agreement of the Executive Director.

Pursuant to Coastal Act Section 30010, the Commission is restricted from acting in a manner that would take or damage private property for public use without the payment of just compensation. In applying this policy in its consideration of the proposed development, the Commission is guided by the U.S. Supreme Court decisions in Lucas, Nollan and Dolan.⁵

Under the Nollan decision, the Commission must find that the mitigation required by the conditions it imposes is reasonably related to the impact it is intended to offset. In other words, there must be a relationship or “nexus” between the nature of the mitigation requirement and the nature of the impact caused by the development. As discussed herein, residential development in the Mid-Coast region is the primary cause of the severe traffic congestion on Mid-Coast Highways 1 and 92. Any increase in the potential level of buildout in the region will lead to even greater demands on infrastructure that cannot support buildout of the existing supply of legal lots in the region. 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. Consequently, the applicant’s proposal to create new lots for residential development, adding to this supply of existing legal lots in Half Moon Bay, will result in significant adverse cumulative impacts to regional traffic congestion and the public’s ability to access the coast in conflict with the Half Moon Bay LCP unless mitigated. Special Condition 7 specifically addresses these impacts by requiring the applicant, consistent with the terms of both the modified development proposal and the settlement agreement, to pay \$45,000 per lot for each of the 63 parcels on which homes will be built. The in-lieu fee money must be used by the City for the purposes of acquiring and retiring development rights on existing legal parcels in the City that would otherwise contribute to the significant adverse cumulative impacts of concern if developed. Therefore, the Commission finds that a clear nexus exists between the nature of the requirements of Special Condition 7 and the nature of the significant adverse cumulative impacts to regional traffic and coastal access caused by the proposed residential development.

The Commission further finds that the mitigation requirements of Special Condition 7 is also roughly proportional to the significant adverse cumulative traffic and coastal access impacts attributable to the proposed residential development. In accordance with Special Condition 1, the Commission and the applicant reduced the number of new lots for residential development that are permitted to 63. Special Condition 7 requires the applicant, consistent with the terms of both the modified development proposal and the settlement agreement, to pay an in-lieu fee equal to the value of 63 development credits when adjusted for inflation. The Commission finds that the 1:1 ratio of the number of lots created to the number of development credits purchased clearly establishes that the degree of the mitigation is roughly proportional to the degree of the impact. Therefore, the Commission finds that, as conditioned, the proposed development is

⁵ Lucas v. South Carolina Coastal Council (1992) 505 U.S. 1003, 112 S. Ct. 2886, 120 L. Ed. 2d 798. Nollan v. California Coastal Commission (1987) 483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 2d 677. Dolan v. City of Tigard, (1994) 512 U.S. 374, 114 S. Ct. 2309, 129 L. Ed. 2d 304.

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consistent with LUP Policies 9-2, 9-4, 10-4, and 10-25 and with Coastal Act Sections 30210, 30250(a), and 30252.

The Commission finds that without the proposed in-lieu fee for lot retirement, the regional cumulative traffic impacts of the proposed development would significantly interfere with the public's ability to access the coast, in conflict with both Coastal Act Policies 30210, 30250(a) and 30252, all of which are incorporated as policies of the certified Half Moon Bay LUP, as well as the City-specific policies of the LCP cited above. Therefore, the Commission imposes Special Condition No. 7, consistent with the terms of both the modified development proposal and the settlement agreement, to require the applicant to pay \$45,000 per lot for each of the 63 parcels on which homes will be built to allow the city to extinguish the development rights on existing legal lots in the City in order to offset the significant adverse cumulative impacts resulting from the proposed creation of new lots. With this condition, the Commission finds the modified development proposal is consistent with the Half Moon Bay LCP and avoids significant adverse effects to traffic on Highways 1 and 92.

2.4 Project Site Access

2.4.1 Issue Summary

As discussed below, as the proposed Pacific Ridge subdivision builds out, vehicle access to the site will be limited by inadequate road capacity at the intersection of Terrace Avenue and Highway One. Given the lack of feasible access alternatives to Terrace Avenue, the LCP requires that mitigation to address the constraints at the Terrace intersection be implemented to assure that the buildout of the project will continue to have adequate site access. Absent such mitigation, the LCP requires that the project be reduced in density or denied if the constraints cannot be addressed. In its original approval of this subdivision, the Commission authorized the use of Terrace Avenue for access to the subdivision, but only for the first forty houses. Under the proposed modified subdivision, Terrace Avenue would provide access for all 63 houses, for a net increase of 23. Special condition number 11 addresses the need for mitigation of this project constraint consistent with the provisions of both the modified development proposal and the settlement agreement. As conditioned, the modified development proposal will be consistent with the public service policies and ordinances of the LCP.

2.4.2 LCP Requirements

LUP Policy 9-2 specifies that no permit for development shall be issued unless a finding is made that such development will be served upon completion by adequate road facilities. LUP Policy 9-4 states that (1) all new development shall be accessed from a public street or have access over private streets to a public street, (2) development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP, (3) that the applicant shall assume full responsibility for the costs for service extensions or such share as shall be provided through an improvement or assessment district for required service extensions, and (4) that prior to issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services will be available to serve the proposed development upon its completion.

These policies are implemented by Zoning Code Section 18.20.070, which states in relevant part:

18.20.070 Findings Required. *A Coastal Development Permit may be approved or conditionally approved only after the approving authority has made the following findings:*

...

D. Adequate Services. *Evidence has been submitted with the permit application that the development will be provided with adequate services and infrastructure at the time of occupancy in manner that is consistent with the Local Coastal Program...*

In addition to these general requirements, LUP Policy 9.3.7 addressed the potential development of the Pacific Ridge site (formerly known as the Dykstra Ranch). This policy was premised on the potential construction of 228 single-family and multi-family residential units at the Dykstra Ranch. Subsection (f) of this policy also anticipated that the project site would be accessed via the construction of Foothill Boulevard, which would connect Foster Drive to the south and Grandview to the north:

f) A right-of-way of not more than 80 feet shall be dedicated along an alignment as generally indicated in the Land Use Plan Map and as approved by the City for the location of Foothill Boulevard and connections with Grandview and Foster, and such right-of-way shall be improved with a suitable street and with bicycle, hiking, and equestrian trails as a part of development of the site.

However, LUP Policy 9.3.7(a) also is clear that the ultimate buildout of the Pacific Ridge planned development would need to be consistent with all policies of the Half Moon Bay LUP:

9.3.7 Dykstra Ranch

Proposed Development Conditions

*a) A specific plan shall be prepared for the entire area which incorporates all of the conditions listed below **and conforms to all other policies of the Land Use Plan.***

b)

[emphasis added].

...

2.4.3 Discussion

The project site is located approximately 3,300 feet north of Highway 92 and approximately 2,000 feet inland of Highway 1, and is separated from these highways by both developed and undeveloped areas. Terrace Avenue, which currently serves the Terrace neighborhood with a connection to Highway 1 to the west, is the only existing public road connection to the project site. The LUP Map and policy 9.3.7 anticipate future access to the site via Foothill Boulevard, which would run north from Highway 92 linking with the project site and with existing roadways.


As with the Commission's prior approval of the Pacific Ridge subdivision, the settlement agreement and the modified development proposal at Pacific Ridge rely on Terrace Avenue as

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the sole project site access for the 63 unit development. This is because no other access to the site has been determined to be feasible. As detailed, below, however, the use of Terrace Avenue for full-buildout of the site is only feasible if mitigation is provided to supplement capacity at the intersection of Highway One and Terrace.

Feasible Alternatives

Foothill Boulevard

The  Circulation Element of the City's General Plan shows Foothill Boulevard as a planned route to serve the neighborhoods to the north of Highway 92 and inland of Highway 1, including the Pacific Ridge Development, Beachwood and Glencree. Pursuant to the Circulation Element, Foothill would be designed as a four-lane arterial street with a median, bicycle lanes, and sidewalks. The Circulation Element defines arterial streets such as this as "Limited Access Facilities" designed to carry traffic from collector streets and to and from other parts of the City. The design criteria for Limited Access Facilities specify that direct access to abutting property shall be minimized. As discussed above, the LUP also envisions the development of Foothill Boulevard to both serve planned residential developments and as a bypass from Highway 92 to Highway 1. The bypass would serve to reduce conflicts between lower-priority residential traffic and high priority public visitor-serving traffic on Highway One which, along with Highway 92, is the main visitor-serving access road in Half Moon Bay.

Since the certification of LUP policies contemplating the development of Foothill Boulevard, the density of the Pacific Ridge development proposed herein has been significantly reduced, from 228 to 63 units, due in large part to the identification of wetlands and other sensitive resources on the site.

As discussed in Section 2.1, the City approved a specific plan for the Dykstra Ranch PUD on January 4, 1994, and subsequently incorporated this PUD plan as Chapter 18.16 of the Zoning Code. The Commission certified the specific plan in April 1996. Zoning Code Section 18.15.045.C states that a specific plan shall expire two years after its effective date unless a building permit has been issued, construction diligently pursued, and substantial funds invested. Therefore, the specific plan expired in April of 1998, and Zoning Code Chapter 18.16 is not included in the standard of review for this coastal development permit application.

However, because the specific plan was designed by the City in conformance with the LCP, and the Commission approved it as consistent with the LCP, it does shed light on the details of the development that are intended to occur at the Pacific Ridge site. Section 18.16.070.E. of the specific plan says: "The Foothill Boulevard shall be constructed with a connection to Highway 1 and all intersection improvements at Foothill Boulevard and State Route 92 and the proposed Bayview Drive and Highway 1 shall be installed prior to the issuance of any building permits for any additional units after the first 100 units are constructed." Because the proposed project is for only 63 homes, the construction of Foothill Boulevard would not have been triggered under the specific plan.

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In addition, subsequent reviews of an access alternative along the Foothills alignment have confirmed the presence of wetlands that would be filled by any road construction.⁶ A preliminary biological study cited in the Commission's 2001 Adopted Findings, and letters in 1999 and 2000 from the applicant's construction manager, did indicate that Foothill Boulevard could be aligned to avoid the wetlands and a 100-foot wetlands buffer. However, a subsequent biological study completed in 2005 clearly demonstrates that none of the alignments considered, including those considered by the applicant's construction manager, can be built to avoid the wetlands.⁷

Given the evidence in the record concerning wetlands along the Foothill Boulevard alignment, it is not feasible to construct an access for the Pacific Ridge subdivision at this Foothill location. Such a road would conflict with both the wetlands policies of the LCP and LUP policy 9.3.7, which requires that all policies of the LUP be met for the Pacific Ridge planned development.⁸

Bayview Drive

Although not proposed as part of this coastal development application, Bayview Drive is a street contemplated in association with the Beachwood subdivision project site directly west of the Pacific Ridge property. Bayview Drive could potentially connect the Pacific Ridge site to Highway 1 to the north of Terrace Avenue through the Beachwood property via Golden Gate Avenue. However, the proposed alignment of Bayview Drive is located on property that is not within the applicant's control. Moreover, development at the Beachwood site is uncertain at this time. Thus, Bayview Drive is not a feasible access alternative to serve the modified development proposal.

Silver Avenue

Silver Avenue is an existing road running east from Highway 1, directly south of Terrace Avenue. Silver Avenue is currently blocked at the intersection with Highway 1. If the roadway were opened, it could be used for right-turn in and right-turn out access at the intersection, providing a potential additional accessway to the development. However, according to the City's 2004 traffic report, "physical constraints such as the proximity of Silver Avenue to the adjacent intersections on SR-1 and the grades have eliminated this alternative from consideration."⁹ Thus, Silver Avenue is not a feasible access alternative to serve the proposed development.

⁶ *Feasibility Study for Foothill Boulevard Alternatives*, Mark Thomas & Company, Inc, March 27, 2006.

⁷ EIP Associates, *Foothill Boulevard Feasibility Analysis* (June 2005), 19.

⁸ It should also be noted that the applicant, the appellants, and City staff have all previously indicated that the Half Moon Bay community supports the deletion of Foothill Boulevard from the Circulation Element of the City's General Plan as approved in 1992. Consistent with this preference, the Planning Commission recommended revisions to the 1992 Circulation Element that included elimination of Foothill Boulevard in draft circulation element revisions considered in September 1999. These draft revisions have not been finalized or approved by either the City or the Coastal Commission and are therefore not effective at this time.

⁹ T.Y. Lin International, *Traffic Analysis for Terrace Avenue Signal Installation* (November 2004), 3-9.

Terrace Avenue

Consistent with the terms of the settlement agreement, the applicant proposes Terrace Avenue as the permanent access for the Pacific Ridge development. Terrace Avenue is an existing road running east from Highway 1 to a dead end that abuts the western boundary of the Pacific Ridge property. Terrace Avenue would provide both construction and post-construction access to the site.

The intersection of Terrace Avenue and Highway One does not have a traffic signal and currently operates at level of service (LOS) F at peak commute hours due to delays caused by left turn movements from Terrace to southbound Highway 1.¹⁰ In addition, residents of the Terrace Avenue neighborhood are concerned that the proposed development will generate additional traffic from construction vehicles and future residents that will exceed the capacity of Terrace Avenue, resulting in both congestion and safety hazards.

In its 2001 approval, the Commission approved the use of Terrace Avenue for the first 40 homes built at Pacific Ridge and found that Terrace Avenue was adequate to serve the existing development, as well as the first 40 homes at Pacific Ridge. Under the 2001 approval, the ultimate size of the development would have been 126 units. The current modified development proposal is for 63 homes – 23 more than the 40 that the Commission approved to use at the unsignalized Terrace Avenue.

Under the terms of both the settlement agreement and the modified development proposal, no more than 40 homes can be built within the first three years after the final subdivision map is recorded. The remaining 23 homes must be built within eight years of the start of construction. The applicant would mitigate the traffic impacts caused by the modified development proposal by funding traffic improvements at the intersection of Terrace Avenue and Highway 1. The settlement agreement envisions these traffic improvements would consist of a traffic signal and widening of Highway 1, 400 feet to the north and south of Terrace. Under the terms of both the settlement agreement and the modified development proposal, the applicant may directly fund the installation of a traffic signal at the Terrace Avenue/Highway 1 intersection and widen 400 feet of the highway on either side of this intersection, or they may provide a letter of credit to the City, in the amount of the cost of the signal and widening project.

The City began review of the signal project, but was faced with strong neighborhood opposition and therefore did not complete their review of the project. In-lieu of constructing the signal, the City has utilized the provision of the settlement agreement that allows for a letter of credit in the amount of the cost of the signal and widening. The City asked for, and the applicant agreed to provide, the funding in the form of a Letter of Credit. The applicant will pay the City the money in three installments. The first installment has been paid, the second would be paid after the Commission approves the modified CDP application, and the final installment would be paid after the Commission issues the modified CDP.

TERRACE AVENUE/HIGWAY ONE INTERSECTION

Although their review of the signal and widening project was suspended, the City did complete a traffic study analyzing the project in 2004. The applicant completed their own traffic study of the project in 2005.¹¹ According to the traffic studies, the completed, 63-unit Pacific Ridge

¹⁰ Ibid.

¹¹ Fehr & Peers Memorandum, *Half Moon Bay – Terrace Avenue Signalization Study, Dated July 15, 2005*.

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development would generate 55 new vehicle trips during the AM peak-hour and 71 new trips during the PM peak-hour, on Terrace Avenue; the 23 homes, which would be built in addition to the 40 that were previously approved for use of the unsignalized Terrace intersection would generate approximately 20 AM peak-hour trips and 26 PM peak-hour trips

A memorandum from the applicant's traffic engineer, Fehr and Peers, dated June 20, 2008 states that the proposed 63-unit Pacific Ridge project would add about 700 trips per day to the existing 1,200 vehicle trips per day on Terrace, and that the resulting traffic volume of 1,900 vehicles per day "is within its capacity, and is consistent with its function as a residential collector street."

Both the City and the applicant completed traffic reports to analyze the impact of the 63 units on intersections in the vicinity of Pacific Ridge. Both traffic studies analyze five intersections in the vicinity, including the intersection of Terrace Avenue and Highway 1. The City's study indicates the level of service (LOS) at this intersection under four scenarios: 1) 2004 existing conditions; 2) 2004 existing conditions with the signal improvements and Pacific Ridge traffic; 3) 2020 cumulative conditions with no signal improvements; and 4) 2020 cumulative conditions with signal improvements.¹²

The applicant's study indicates the LOS at the Terrace/Highway 1 intersection under slightly different scenarios.¹³ These are: 1) 2005 existing conditions; 2) 2005 existing conditions with Pacific Ridge traffic, but no signal improvements; 3) 2020 cumulative conditions with no signal improvements; and 4) 2020 cumulative conditions with signal improvements.

Charts showing the results of both traffic reports are attached as Exhibits 10 and 11.

Under the existing 2004 and 2005 conditions that were analyzed in the traffic reports, the Terrace/Hwy 1 intersection operated at LOS F in both the AM and PM peak hours. However, this LOS F delay applies only to the vehicles exiting out of Terrace Avenue, onto Highway 1. It does not apply to delays on Highway 1 or vehicles using Terrace Avenue for other maneuvers (e.g. entering Terrace or traveling on Terrace).

In both traffic studies, the 2020 cumulative conditions include traffic generated by the proposed 63-unit Pacific Ridge, and a 2% growth factor per year for all approaches. Under these conditions the LOS at Terrace/Hwy 1 would worsen by 2020. However, the assumption of a 2% per year growth factor for the City is high, given recent trends, and the possible incorporation of the Measure D growth control ordinance into the City's LCP. According to Department of Finance estimates, the average residential growth rate in Half Moon Bay from 2001 to 2007 was only 1.1%.¹⁴ If Measure D is certified by the Commission, residential growth would be limited to 1% to 1.5% per year.

The traffic studies analyze the projected conditions either with a traffic signal and widening project, or with no improvements at all. With the signal and widening, they show there will be a dramatic improvement at the westbound approach to the Terrace/Highway 1 intersection, for cars exiting Terrace Avenue onto Highway 1 from the current LOS F to LOS B. Without the signal and widening, the intersection would remain at LOS F. However, although a traffic signal would improve left turn movements into and out of Terrace Avenue, it would interrupt flow of through

¹² T.Y. Lin International/CCS, *Traffic Analysis for Terrace Avenue Signal Installation* (November 22, 2004).

¹³ Fehr & Peers, *Half Moon Bay – Terrace Avenue Signalization Study* (July 15, 2005).

¹⁴ State of California, Department of Finance, *E-5 City/County Population and Housing Estimates, 2008, Revised 2001-2007, with 2000 Benchmark* (May 2008).

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traffic on Highway 1. The distance between the currently signalized North Main Street/Highway 1 intersection and Terrace is approximately 1,000 feet. Spacing signalized intersections on Highway 1 this close could increase congestion on the highway because of insufficient “stacking” space on the highway.

Because a traffic signal may disrupt traffic flow at Highway 1, adversely impacting regional traffic, and because both traffic reports have overestimated the growth factor that will occur at this intersection by 2020 if Measure D is certified by the Commission, both a traffic signal and widening may not be necessary to provide safe and adequate access for the modified development proposal. It may be that widening and restriping on Highway 1 would be sufficient to provide better traffic flow for the Terrace Avenue/Highway 1 intersection (specifically for cars exiting Terrace Avenue onto southbound Highway 1) by creating a pocket for exiting cars without adversely impacting traffic flow on Highway 1. Even so, under the terms of both the settlement agreement and the modified development proposal, the applicant will provide funding to the City that covers the cost of both the signal and associated Highway 1 widening. Condition 11 requires the money to be spent on traffic improvements to address traffic from the Pacific Ridge subdivision, either in the form of improvements to the Terrace Avenue/Highway 1 intersection or other improvements in the vicinity that the Executive Director approves. Based on this mitigation, the Commission finds that access to the proposed subdivision on Terrace Avenue will be adequate and thus consistent with the LCP.

CONSTRUCTION TRAFFIC

In order to mitigate the potential impacts to Terrace Avenue traffic from construction vehicles, Special Condition 17 would require the applicant to minimize the impacts of construction traffic to Terrace Avenue and other local streets by avoiding peak hour trips and implementing the following additional measures:

- A. Construction equipment and worker vehicles will be staged and parked on the project site.
- B. The applicant will notify the City 24 hours in advance if more than 25 worker vehicles are to exit the site during the PM peak-hour, and reimburse the City for the cost of any resulting traffic controls at the intersection of Terrace Avenue and Highway 1.
- C. The applicant will maintain Terrace Avenue free of dirt and debris throughout project construction.
- D. Heavy construction vehicles will only access the site during non-peak hours.
- E. The applicant will install speed bumps on Terrace Avenue, if requested.
- F. The applicant will pay for any repairs required due to the construction traffic.

Further, this is a balanced grading project, meaning all cut will be used as fill on the site. This will result in far fewer truck trips than a traditional cut and fill project.

Therefore, the Commission finds that the use of Terrace Avenue for construction of the project is consistent with the LCP.

2.4.4 Conclusion

In order to approve or conditionally approve the permit application, the Commission must find that evidence demonstrates that the development will be served with adequate road facilities at the time of occupancy in a manner that is consistent with the Local Coastal Program.

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The Commission must also find that local vehicular access to the project via Terrace Avenue is sufficient, and consistent with the LCP. The Terrace Avenue/Highway 1 intersection would remain at LOS F until the city completes the mitigation improvements funded by the applicant. However, traffic studies show that traffic would not be worsened on Highway 1 and delays would occur at the Terrace Avenue intersection during peak hours only. Although traffic delays may increase on Terrace in the short-term, the applicant has provided funding to the City to complete road improvements that will significantly improve traffic flow at the intersection. Therefore, because the applicant will provide funding to the City to cover the cost of a signal and highway widening at the intersection of Terrace Avenue and Highway 1 and condition 11 requires the money to be spent on traffic improvements to address traffic from the Pacific Ridge subdivision, either in the form of improvements to the Terrace Avenue/Highway 1 intersection or other improvements in the vicinity that the Executive Director approves, Terrace Avenue provides adequate service to the development and coastal resources will not be significantly adversely impacted. As evidenced above, and consistent with LUP Policy 9-4 (1) the modified development proposal will be accessed from a public street, (2) will be served with adequate services, and (3) provides funding for the necessary traffic improvements. Therefore, the Commission finds that the modified development proposal meets the requirements of LUP Policies 9-2 and 9-4 and Zoning Code Section 18.20.070.D, because the development would be served by Terrace Avenue, which is an adequate, public road facility.

2.5 Water Service

2.5.1 Issue Summary

The project site is not currently served by water infrastructure. In 2001, Ailanto planned to construct a new pipeline from the Coastside Community Water District's (CCWD) Carter Hill tanks, southeast of the property, to serve the development. However, currently, Ailanto proposes to connect to the existing water infrastructure either via a new 10" pipeline from Highway 1 to the project site or perhaps by connecting to the existing water line in Terrace Avenue. CCWD must approve this proposal for a new pipeline, before the development can be served, but Ailanto has not yet submitted their proposal to CCWD for approval.

The LCP requires new development to be served with adequate water service upon completion. The applicant has addressed this LCP requirement by agreeing to Special Condition 16, which requires Ailanto to submit a water supply plan that has been approved by CCWD, prior to issuance of the permit. As conditioned, the project will be consistent with LCP Policies and Ordinances.

2.5.2 LCP Requirements

LUP Policy 9-2 states in relevant part:

*No permit for development shall be issued unless a finding is made that such development will be served upon completion with **water**, sewer, schools, and road facilities...* [Emphasis added.]

LUP Policy 9-4 states in relevant part:

...

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(2) development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP,

(3) that the applicant shall assume full responsibility for the costs for service extensions or such share as shall be provided through an improvement or assessment district for required service extensions, and

(4) that prior to issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services will be available to serve the proposed development upon its completion.

These policies are implemented by Zoning Code Section 18.20.070, which states in relevant part:

18.20.070 Findings Required. *A Coastal Development Permit may be approved or conditionally approved only after the approving authority has made the following findings:*

...

D. Adequate Services. *Evidence has been submitted with the permit application that the development will be provided with adequate services and infrastructure at the time of occupancy in manner that is consistent with the Local Coastal Program...*

In addition, LUP Policy 1-1 adopts Coastal Act sections 30210 through 30264 as the guiding policies of the Land Use Plan. Section 30254 of the Coastal Act states, in relevant part:

*New or expanded public works facilities shall be designed **and limited** to accommodate needs generated by development or uses permitted consistent with the provisions of this division...Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division...*

2.5.3 Discussion

Ailanto previously acquired 222 water connections from the Coastside County Water District (CCWD) to serve the project. According to the CCWD, there were approximately 1133 unused residential connections and 111 unused priority connections from the Crystal Springs project at the end of 2006. However, the CCWD's 2006 Annual Report also indicates that recent water demand in the District exceeded the available drought yield supply conditions which, had they been necessary to implement, would have required a 14% reduction in demand through water conservation. The CCWD currently has a water advisory and is encouraging its customers to conserve water in light of recent below average precipitation. However, at this time there appears to be adequate CCWD production capacity and commitments to serve the additional demand associated with the 63 new residential users of the Ailanto subdivision.

Ailanto must obtain a water service agreement from CCWD. To do this, Ailanto must submit their plans for construction of a pipeline extension that would connect the proposed development with the existing water infrastructure. This plan must then be approved by CCWD.

Ailanto proposes to either connect to the existing water infrastructure via a new 10" pipeline from Highway 1 to the project site or perhaps to connect to the existing water line in Terrace. They have also indicated that the water line may be connected as a loop back to existing lines in

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Silver Avenue or Highland Avenue. Although the applicant has not yet submitted their plans to CCWD for approval, CCWD has indicated that they may require the development to be served via the Carter Hill pipeline, because it may not be possible to construct the Terrace Avenue pipeline in conformance with their current policies. Any such water line would require approval by the City of Half Moon Bay and an amendment to this permit.

Because there is some question about the specific water line that would be approved by the CCWD, the applicant proposes Special Condition 16, which requires Ailanto to submit a water supply plan that has been approved by the CCWD, prior to issuance of the permit.

Pursuant to section 30254 of the Coastal Act, expanded public works facilities, such as the proposed water pipeline extension, should be limited to accommodate the needs generated by the proposed development. Therefore, Special Condition 16 requires the pipeline to be the minimum size necessary to serve the development.

2.5.4 Conclusion

Consistent with LUP Policy 9-4(3), the applicant has assumed full responsibility for constructing the water pipeline that will be required to supply the development. However, because they have not obtained an approval for the pipeline construction from CCWD, and CCWD has indicated they may deny the specific proposal to install a new pipeline along Terrace Avenue that deadends at the development, the Commission cannot find the project to be consistent with the LCP without Special Condition 16.

Special Condition 16 requires the applicant to submit proof of CCWD approval of the proposed pipeline construction prior to issuance of the permit. This will ensure that adequate water service will be available to serve the proposed development upon its completion.

Therefore, the Commission finds that, as conditioned, adequate water service will be available to serve the development upon completion, consistent with LUP Policies 9-2 and 9-4, and Zoning Code Section 18.20.070.D. The Commission also finds that, as conditioned, the new water infrastructure would be limited to serve the proposed development only, consistent with Coastal Act Policy 30254.

2.6 Biological Report

2.6.1 Issue Summary

The project site contains environmentally sensitive habitat areas (ESHA) as defined in the LCP including wetlands, riparian areas and sensitive habitat areas. The site is located within an area that has been mapped as a Significant Natural Area by the California Department of Fish and Game. This designation is intended to identify high-priority sites for the conservation of the State's biological diversity.

The LCP contains specific standards for the type of biological information required to be provided for coastal development permit applications for development with potential adverse impacts to environmentally sensitive areas. This information is vital to the determination of whether a proposed development conforms to the biological resource protection policies of the LCP.

2.6.2 LCP Standards

LUP Policy 3-5(a) requires all coastal development permit applicants proposing development in and adjacent to sensitive habitat areas to prepare a biological report by a qualified professional selected jointly by the applicant and the City to be submitted prior to development review. Zoning Code Section 18.38.035 further specifies that a biological report shall be completed as a part of any permit application for development within 100 feet of any sensitive habitat area, riparian corridor, or wetland. Both of these policies, along with Zoning Code Section 18.38.030, specify the procedures for the preparation and the required contents of such a report, which include:

- describe and map existing sensitive habitats, riparian areas, and wetlands located on or within 200 feet of the project site,
- for areas containing rare and endangered species habitat, define the specific requirements of the species including (for animals) predation, foraging, breeding, migration, water, nesting or denning sites, and (for plants) life histories, soil, climate, and geographic requirements,
- be prepared by a qualified biological consultant selected by the City and paid for by the applicant,

2.6.3 Description of Biological Resource Reports for the Project Site

The biological information collected for the project site is contained in the following documents:

July 1986 Biological Inventory and Sensitivity Analysis prepared for Ailanto Properties by Western Ecological Services Company (WESCO 1986)

The WESCO 1986 biological inventory identified some, but not all of the wetland areas presently delineated on the site, identified coastal scrub habitat in the uncultivated/plowed eastern portion of the site, and documented the presence of sensitive species including: a pair of red tailed hawks, a nesting great horned owl, and migrating waterfowl. The WESCO report states that the site contains suitable habitat, including a former irrigation pond, for several threatened and endangered species, including the San Francisco garter snake, the red-legged frog, California tiger salamander, and western pond turtle. The WESCO biological inventory included an April 1986 survey for San Francisco garter snakes. This survey was conducted by walking transect lines. Live trapping was not used for this survey. The report concludes that because “Site examination in the spring of 1986 and summer of 1987 revealed no rare or endangered plants or wildlife on the Dykstra Ranch property, it can be assumed that the proposed development would have no direct impact on rare and endangered species.” The Environmental Impact Report (EIR) also states that suitable habitat for a number of sensitive species may have occurred on the site prior to 1985, but that cultivation had eliminated the natural vegetation that would have constituted sensitive species habitat.

April 1990 Final EIR for the Dykstra Ranch Development prepared for the City by Western Ecological Services Company (HMB 1990);

The biological information contained in the project EIR is primarily based on the WESCO 1986 biological inventory prepared for the applicant. The EIR references the survey conducted by the consultant in April 1986 to determine the presence or absence of the San Francisco garter snake on the site. As stated above, this survey did not include live trapping. As with the WESCO 1986

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inventory, the EIR states that no other species for which the site provides suitable habitat were found but does not describe the survey techniques used to make this determination.

December 1997 Wetland Mitigation and Monitoring Plan prepared for Ailanto Properties by Resource Management International (RMI 1997)

The wetland delineation conducted by RMI in June 1997 did not accurately describe the full extent of wetlands on the site in accordance with the definition of wetlands contained in the Half Moon Bay LCP. The wetland delineation was subsequently revised to conform to the LCP definition as discussed below.

The RMI mitigation and monitoring plan states that based on information provided in the project EIR and field surveys conducted by RMI in June 1997, no special status plant species have been identified on the site. The RMI report also states that no protected wildlife species have been documented on the site. This conclusion is based on the surveys conducted by WESCO in 1986 and 1987, and on surveys conducted by RMI in July and August 1997 for California red-legged frogs.

November 1998 U.S. Fish and Wildlife Service formal consultation to the U.S. Army Corps of Engineers (USFWS 1998)

The project, as originally proposed, included approximately one acre of wetland fill and therefore required a fill permit from the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act. In March 1998, the Corps initiated formal consultation with the U.S. Fish and Wildlife Service (USFWS) concerning potential impacts resulting from the proposed development to the federally endangered San Francisco garter snake and threatened California red-legged frog. Consequently, the USFWS prepared a Biological Opinion for the Corps, in accordance with Section 7 of the Endangered Species Act. The Biological Opinion was based on information provided in the 1987 RMI site assessment and surveys and corresponding mitigation and monitoring plan, correspondence exchanged between the applicant's consultants and USFWS staff, and a site visit by USFWS staff and the applicant's representatives. USFWS states in the opinion that no Biological Assessment was provided for the project.¹⁵

The Biological Opinion determined that the project site provides suitable habitat for California red-legged frogs and has potential habitat for San Francisco garter snakes. This determination was based on the presence of vegetated water bodies on the site, including the stock pond, the widespread distribution of California red-legged frogs in the area, and evidence that San Francisco garter snakes are potentially present at any water body in the Half Moon Bay area that supports emergent vegetation and amphibians. The Biological Opinion was inconclusive concerning the presence or absence on the site of either of these species, and recommended pre-construction surveys for both species prior to any development. The USFWS also recommended that no development including grading should occur within 150 feet of the pond.

¹⁵ A Biological Assessment is an evaluation of potential project impacts provided by the federal permitting agency to the USFWS for the preparation of a Biological Opinion in accordance with 50 CFR § 402.12.

June 1999 Biological Resources Report prepared for Ailanto Properties by LSA Associates (LSA 1999a)

Following the appeal of the City's approval of the project to the Commission, LSA Associates prepared a revised wetland delineation for the applicant. Although this new delineation depicted wetland areas in addition to those previously identified in the 1997 RMI delineation, it did not accurately show the full extent of wetland habitat on the site as defined under the LCP. The report states that no California red-legged frogs or San Francisco garter snakes were observed on the site during the 1986 WESCO surveys. LSA did not undertake new surveys for these species in preparing this biological report.

November 1999 Wetland Delineation prepared for Ailanto Properties by LSA Associates (LSA 1999b)

In response to Commission staff comments concerning the June 1999 wetland delineation, LSA prepared a revised delineation of wetland habitat on the site dated November 4, 1999. The Commission's staff biologist reviewed this delineation with the applicant's consultant in the field and verified that it accurately depicted all of the wetland areas on the site in accordance with the definition of wetlands contained in the LCP. Like the June 1999 delineation, this wetland study did not involve wildlife surveys.

August 2000 California Red-Legged Frog Survey prepared for Ailanto Properties by LSA Associates (LSA 2000)

In response to the June 22, 2000 staff recommendation for denial of the proposed project, LSA conducted a new survey for California red-legged frogs on August 3 and 10, 2000. The survey report identifies the potential habitat areas surveyed as: "a wetland area dominated by cattails in the northwest corner of the site; a stock pond, also in the northwest corner of the site; and an outlet channel that flows from the north end of the stockpond [sic]." Although the survey report does not include a map, it appears from this description that the areas surveyed include the Pond, Wetland A, and Stream 5 as shown in Exhibit 12. It does not appear that the other wetlands and riparian areas identified on the site were included in the areas surveyed. The survey report states that "Three drainages also cross the site from east to west. All three drainages were dry at the time of the survey and did not provide habitat for red-legged frogs." This survey did not document the presence of red-legged frogs in the areas surveyed. The survey did document the presence of bullfrogs on the project site.

January 15, 2001 California Red-Legged Frog and San Francisco Garter Snake Habitat Assessment and Constraints Analysis prepared for Ailanto Properties by Peter Balfour (Balfour 2001)

On January 4, 2001, Peter Balfour conducted an assessment of likely or potential habitat for the California red-legged frog and San Francisco garter snake. Balfour also reviewed both published and unpublished observations of both species in the regional and local area and previous biological assessments of the project site. Based on his review of these documents and his field observations, Balfour prepared a report with recommendations for modifications to the project and mitigation measures. Balfour's findings and recommendations are summarized below.

Concerning the California red-legged frog, Balfour finds that the former agricultural pond and associated drainages and uplands provide potential habitat for both of these species, stating:

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The most significant perennial wetland feature on the property is the site's stock pond. The pond and its adjacent wetland and upland areas represent potential habitat for the CRLF and, perhaps, the SFGS.

Balfour reports that while the presence of bullfrogs and predatory fishes in the pond is not favorable for red-legged frogs, neither does it render the habitat useless for the species, stating:

[Bullfrogs and California red-legged frogs] can and often do co-occur in coastal waters (Gary Fellers pers. com). ...Irrespective of less than optimal conditions and survey findings, the periodic use of the pond by CRLF is considered likely and as such the pond should be considered to represent potential breeding habitat.

Balfour's report also supports the determination of the U.S. Fish and Wildlife Service (as further discussed in Section 2.7 below) that the failure to specifically document the presence of the CRLF on the project site is not dispositive:

While no CRLF were observed on site, it is possible that they were present in low numbers and not encountered and/or that they may use the pond to breed on occasion.

With respect to the San Francisco garter snake, the Balfour report found:

The stock pond within the property and the off-site ponds to the north all support both emergent vegetation and an established amphibian food base (e.g., small bullfrogs and Pacific tree frogs), and as such meet the USFWS criteria for a potential [San Francisco garter snake] habitat determination.

Based on his findings, Balfour recommends the following measures to minimize the impacts of the proposed development to the CRLF and the SFGS:

- *The stock pond, its associated drainages/wetlands, and contributing watershed mapped on Figure 5 are recommended for complete avoidance of residential development and associated infrastructure. Wetlands A and F and the intervening upland area west of the stock pond are, similarly, recommended for avoidance...*
- *The proposed development area southwest of the pond should be situated at least 150-feet away from the mapped pond edge so as not to encroach on the pond's watershed.*
- *...grading in the development area north of the lower drainage #3 be contoured to drain away from the pond, to reduce the potential for siltation and watershed alteration.*
- *I support an appropriately-timed eradication effort to eliminate introduced fishes from the stock pond.*
- *Biennial (once every two years) bullfrog eradication, in conjunction with a monitoring program (for a period of ten years), ...*
- *Finally, I recommend against the proposed re-establishment of the normal high water level of the pond (LSA 1999b), as it would likely favor the persistence of bullfrogs by increasing bullfrog breeding success. Head-cutting erosion at the pond outflow into drainage #5 should be monitored and if deemed to represent a threat to the longevity*

of the pond, appropriate erosion control measures should be implemented to insure that the pond is not undermined over the course of time.

October 2007 Riparian Corridor and Wetlands Buffer Survey prepared for Ailanto Properties by LSA Associates (LSA 2007)

In October 2007, LSA Associates updated their previous wetland and riparian habitat map, which was created in 1999 (LSA 1999b). The updated survey shows that the riparian areas have not changed since the 1999 survey, but that some of the wetland areas have shifted slightly. The study concludes that “the overall extent of wetland did not change substantially.” This study does not include wildlife surveys.

2.6.4 Discussion

The applicant has substantially revised the project plans from those originally approved by the City to address biological concerns. However, in a May 4, 2000 letter to the Commission, the applicant’s legal counsel stated:

There are no threatened or endangered species on the Project site, including the red-legged frog or the San Francisco garter snake. Neither species has been observed on the site during surveys conducted pursuant to USFWS protocols or during any of the other surveys for the EIR, wetland delineations, and or other habitat assessments. (Shimko 2000)

While it is true that neither species has been observed on the project site, wildlife experts at the U.S. Fish and Wildlife Service and one of the applicant’s biological consultants found that the species are likely present on the site.

The only survey of the site conducted for the San Francisco garter snake was conducted for the 1986 WESCO biological inventory prepared for the applicant. The WESCO report states that all suitable habitats were surveyed by walking transect lines only, and that live trapping was not used for the survey.

The WESCO report contains no description of the survey techniques used to support the conclusion that the California red-legged frog, California tiger salamander, and western pond turtle were absent from the site. Therefore, the Commission is unable to verify absence or presence of the sensitive species based on the information contained in the 1986 WESCO report, and finds that this report is too out of date to reliably describe the current biological resources of the project site consistent with the requirements of the LCP.

The U.S. Fish and Wildlife Service Biological Opinion determined that the project site provides suitable habitat for California red-legged frogs and has potential habitat for San Francisco garter snakes. Staff of the U.S. Fish and Wildlife Service indicates that documenting the presence of this species is extremely difficult to detect and that a simple transect survey is not sufficient to document the presence or absence of the snake (pers. com. Larson 6/16/00). Both the San Francisco garter snake and the California red-legged frog are extremely rare and shy and quickly seek cover when approached. This position is supported by the findings contained in Balfour’s January 15, 2001 report, as cited above.

Zoning Code Section 18.38.055.B.3 provides that the information and analysis contained in an EIR prepared under California Environmental Quality Act may be accepted in lieu of a separate biological report for a coastal development permit application if the EIR adequately meets the

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requirements of the LCP and the Final EIR was accepted as complete and adequate no more than one year prior to the date of submittal of the permit application. Ailanto submitted its permit application to the City in 1998, eight years after certification of the final EIR. The biological information contained in the project EIR is more than one year older than the date of the permit application submitted and therefore cannot be utilized consistent with the provisions of the certified LCP.

Zoning Code Section 18.38.035.B.1 specifies that the Biological Report required for a coastal development permit application must describe and map all wetlands, riparian areas, and other sensitive habitat areas located on or within 200 feet of the project site. Although this requirement is not fully satisfied by the biological reports submitted by the applicant, the U.S. Fish and Wildlife Service Biological Opinion, and the January 15, 2001 Balfour report consider the relationship between habitat present within the project site and adjacent habitat areas.

2.6.5 Conclusion

Most of the information concerning biological resources for the project is out of date. In fact, the only survey for San Francisco garter snakes conducted on the site is twenty-two years old, and this survey did not employ techniques necessary to determine the presence or absence of this species. Moreover, both the San Francisco garter snake and the California red-legged frog are secretive species. The USFWS does not therefore find failure to document presence of these species is determinative. The California red-legged frog is very common in suitable aquatic habitat areas in Half Moon Bay, and it is therefore highly likely that the species is present at the project site. The presence or absence on the site of these protected species has not been determined.

However, with the U.S. Fish and Wildlife Service Biological Opinion and Peter Balfour's California Red-Legged Frog and San Francisco Garter Snake Habitat Assessment and Constraints Analysis, the Commission finds that sufficient information concerning the biological resources present on and adjacent to the project site is available to evaluate the potential impacts of the modified development proposal.

2.7 San Francisco Garter Snake and California Red-Legged Frog Habitat

As conditioned, the modified development proposal is consistent with the LCP policies concerning the protection of environmentally sensitive habitat areas.

2.7.1 Issue Summary

Both the San Francisco garter snake and the California red-legged frog depend on refuge areas upland from aquatic habitats like the pond (USFWS 1998). The snake prefers open hillsides where it can sun itself, feed and find cover in rodent burrows. The snake hibernates in rodent burrows during the winter, and it has been observed breeding at the entrance to these burrows shortly after emerging from hibernation. The snake is believed to spend the majority of each day during the active season in upland burrows. Adult California red-legged frogs also rely on upland habitat areas in association with aquatic habitat. The frogs seek upland sheltering areas including animal burrows. Access to such sheltering habitat is considered essential for the survival of this species within a watershed.

The U.S. Fish and Wildlife Service has determined through a formal consultation to the U.S. Army Corps of Engineers that the pond and riparian areas on the site provide important habitat

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for the threatened California red-legged frog and the endangered San Francisco garter snake (USFWS 1998). In addition, two large ponds to the north of the site provide suitable habitat for these two species.

The applicant has revised the project plans since the time that the USFWS prepared the Biological Opinion. These changes include the elimination of the proposed wetland fill and reconfiguration of the plot plan to provide an approximately 700-foot buffer between the proposed lot lines and the pond. Riparian buffers remain 30 feet wide. In addition, the applicant has revised the project plans to eliminate the subdivision loop road separating the pond on site from the ponds to the north as well as all of the development previously proposed to the north of Stream 3. As discussed in Section 2.8 below, the applicant proposes to construct an arched culvert to cross Drainage 1 and a bridge to cross Drainage 2 to avoid direct disturbance to the streambeds. The applicant also proposes to implement a predator eradication program to control bullfrogs and introduced fishes in the pond, which may prey on red-legged frogs and juvenile San Francisco garter snakes.

As proposed and conditioned to avoid and mitigate all significant adverse impacts of the project on biological resources on the site, the modified development proposal conforms with all of the LCP policies concerning protection of sensitive habitat and species.

2.7.2 LCP Standards

The LCP contains policies to protect threatened and endangered species habitat, including both general ESHA policies and specific policies for both the California red-legged frog and the San Francisco garter snake (see LUP Policies 3-3, 3-4, 3-24, and 3-25 and Zoning Code Sections 18.38.085 and 18.38.090). These policies require that the habitats of both the San Francisco garter snake and the California red-legged frog are given the highest level of protection.

Sensitive habitat is defined by LUP Policy 3-1 as any area in which plant or animal life or their habitats are either rare or especially valuable and specifically includes habitats containing or supporting “rare or endangered” species as defined by the State Fish and Game Commission.

LUP Policy 3-22 and Zoning Code Sections 18.38.085.B and 18.38.090.B, limit permitted uses in habitat areas of the San Francisco garter snake and the California red-legged frog to (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitats, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

LUP Policy 3-3 prohibits any land use and/or development that would have significant adverse impacts on sensitive habitat areas, and requires that development adjacent to such areas shall be sited and designed to prevent impacts that could significantly degrade the habitat. LUP Policy 3-4 permits only resource dependent or other uses which will not result in significant adverse impacts to sensitive habitats, and requires that permitted uses in such areas comply with USFWS and California Department of Fish and Game requirements.

LUP Policy 3-4 specifies that only resource-dependent or other uses that will not have a significant adverse impact are permitted in sensitive habitat areas. This policy is based on Coastal Act Section 30240, which is incorporated as a guiding policy of the LUP. LUP/Coastal Act Policy 30240 provides that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas, and that development in areas adjacent to environmentally sensitive

habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

As discussed in Section 2.9 below, the LCP also contains policies specifying minimum widths for wetland and riparian buffers. The project plans for the modified development proposal conform to these minimum setbacks and are also sufficient to provide the protections required by all of the above cited policies for the habitat of the San Francisco garter snake and the California red-legged frog.

2.7.3 Discussion

California red-legged frogs

California red-legged frogs have been extirpated or nearly extirpated from over 70 percent of their former range and are federally listed as threatened. Habitat loss, competition with and direct predation by exotic species, and encroachment of development are the primary causes for the decline of this species throughout its range. The remaining populations are primarily in central coastal California and are found in aquatic areas that support substantial riparian and aquatic vegetation and lack non-native predators. The project site is located within the Central Coast Range Recovery Unit for the California red-legged frog as defined in the federal listing for this species.

San Francisco garter snake

The San Francisco garter snake is a federal and state listed endangered species. The San Francisco garter snake's preferred habitat is densely vegetated ponds near open hillsides where it can sun itself, feed, and find cover in rodent burrows. The species is extremely shy, difficult to locate and capture, and quick to flee to water when disturbed. On the coast, the snake hibernates during winter in rodent burrows, and may spend the majority of the day during the active season in the same burrows.

California red-legged frogs are an essential prey species to the San Francisco garter snake, and the snakes have not been found in areas where red-legged frogs are absent. In addition, newborn and juvenile San Francisco garter snakes depend heavily on Pacific tree frogs. Adult snakes may also feed on juvenile bullfrogs. The decline of this species is due principally to habitat loss, the loss of red-legged frog, illegal collection, and the introduction of bullfrogs. Adult bullfrogs prey on both San Francisco garter snakes and California red-legged frogs.

Project Impacts

The USFWS has indicated that the pond on the project site and two ponds to the north of the property boundary are potential breeding habitat for the red-legged frog. These three ponds are well fed by numerous drainages from the large, undeveloped watershed to the east and by seeps and springs, and contain water throughout the year. The ponds are all located well within 1.25 miles of each other, and are connected by barrier-free dispersal habitat that is more than 500 feet wide.

The USFWS determined in its Biological Opinion for the project that the development previously proposed within 300 feet of both sides of the several unnamed drainages (Streams 3, 4, and 5) and two ponds on the site would result in the direct loss of riparian and upland habitat

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suitable for the California red-legged frog and the San Francisco garter snake (USFWS 1998). The modified development proposal includes development within 300 feet of the south side of Stream 3. The development that was previously proposed within 300 feet of the north side of Stream 3, and within 300 feet of Streams 4 and 5, and the ponds, has been eliminated. The USFWS determination of habitat loss associated with the previously proposed development was due to insufficient buffer distances between the riparian corridors and the pond on the site, which would inhibit dispersal of both species between adjacent aquatic and upland habitat areas. In addition to interfering with dispersal corridors, the USFWS found that the previously proposed development would reduce the quality of the surrounding habitat as foraging and breeding habitat. The loop road originally proposed along the northern side of the property would have separated the aquatic habitat on the site and the ponds to the north and would have further interfered with species movement. Although the Biological Opinion requires a minimum buffer around the pond and other wetland areas of 150 feet, it also states that development within 300 feet of these areas will result in adverse impacts to the species including incidental take due to direct loss of habitat (USFWS 1998).

As discussed above, the August 2000 red-legged frog survey documented the presence of bullfrogs on the project site (LSA 2000). According to the applicant, the pond also contains introduced fishes (Foreman 2000). Predation by introduced fishes is one of the factors contributing to the decline of the California red-legged frog (USFWS 2000). In conjunction with the applicant's original application to the Commission, the applicant's biological consultant concluded that red-legged frogs are absent from the project site because of the presence of bullfrogs and introduced fishes, stating:

While California red-legged frogs can co-exist in rare instances with bullfrogs, the presence of two predator groups (bullfrogs and fish) virtually eliminates the potential for California red-legged frogs to regularly inhabit a site...

The applicant's consultant further stated that the project site is a hazard to red-legged frogs and San Francisco garter snakes and not valuable habitat for these species:

The on-site habitats are more of a hazard or "ecological sink" to both species rather than being especially valuable habitats. Any California red-legged frogs and San Francisco garter snakes which might reach the onsite habitats are likely to die (be eaten) or waste any reproductive effort because of high predation rates and competition from bullfrogs and non-native fish. Clearly, on-site habitats are not "valuable" to the species under current conditions. (Foreman 2000)

Commission staff consulted with the USFWS concerning the applicant's position during the original coastal development permit application process with the Commission that the presence of non-native predators renders the project site unsuitable and hazardous to California red-legged frogs and San Francisco garter snakes. According to USFWS Fish and Wildlife Biologist Curtis McCasland, bullfrogs have a significant effect on the ability of a site to support California red-legged frogs where the habitat is degraded or constrained, but not in areas where habitat suitable for both species is abundant. The habitat is not degraded or constrained in the coastal region within which the project site is located. Coexistence of the two species has been documented in several areas in the Mid-Coast region including Crystal Springs Reservoir and Pescadero State Park (pers. com. McCasland 11/14/00).

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Commission staff discussed the potential impacts of the original coastal development permit application project, as it was proposed in June 2000, to the snakes and frogs in a telephone conferences with McCasland on June 19 and 21, 2000. McCasland responded to staff's inquiries as follows:

- Development within 300 feet of the pond and wetland areas and the riparian areas associated with these wetlands (i.e., the portion of Stream 3 above the diversion, and Streams 4 and 5) will result in significant adverse impacts to the San Francisco garter snake and California red-legged frog due to loss of suitable habitat. Protection of these species requires a 300-foot-wide buffer around the wetlands and the riparian areas.
- There is no biological basis for a 150-foot buffer. This distance was the result of negotiations with the applicant. A 150-foot buffer will result in loss of habitat suitable for both species.
- Arched culverts will not allow adequate movement of the frogs and snakes within the riparian areas. All road crossings of Streams 3, 4 and 5 should be via elevated bridges to allow free movement of wildlife for the width of the corridors.
- Both the San Francisco garter snake and the California red-legged frog are secretive species. The USFWS does not find failure to document presence of these species exempts a project from the requirements of the Endangered Species Act. The California red-legged frog has been found in suitable aquatic habitat areas in Half Moon Bay. Therefore, it is highly likely that the species is present at the project site. Preservation of suitable habitat, such as that found on the project site, is critical to the recovery of both species.

Project Revisions Associated with this Modified Development Proposal

The modified development proposal currently before the Commission would prevent the direct loss of ESHA. The modified development proposal project plans eliminate the loop road around the pond and eliminate the 66 lots proposed north of Stream 3. By eliminating the loop road and development north of Stream 3, the revised plans also reduce the number of stream crossings from six to two. The modified project plans substantially reduce the potential impacts of the proposed development to environmentally sensitive habitat areas on the project site. The Commission finds that as modified by the applicant and reflected in Special Conditions 3, 5 and 6, the modified development proposal will avoid significant adverse impacts to the San Francisco garter snake and the California red-legged frog, in conflict with the policies of the LCP.

However, the potential for significant impacts to the San Francisco garter snake and the California red-legged frog will remain. Development is proposed 30 feet from Streams 1, 2, and 3. Although these streams do not provide breeding habitat for the California red-legged frog, they do provide potential dispersal corridors for the frog (Balfour 2001). During winter rain events, juvenile and adult frogs are known to disperse up to two kilometers. Development can pose significant adverse impacts to frogs by restricting movement between these corridors. In addition, domestic animals associated with residential development may prey on both species. To avoid these potentially significant adverse impacts, the applicant proposes and the Commission imposes Special Condition 5. Special Condition 5 requires the applicant to manage the ESHA for the San Francisco garter snake and the California red-legged frog. The primary management measure required under this condition is the control of bullfrogs and other predators of these species as recommended by both the applicant's consultant and the Commission's staff

biologist. In addition, the applicant proposes and the Commission imposes Special Condition 6 to protect the stream corridors from construction-related impacts. Finally, the applicant proposes and the Commission imposes Special Condition 3 requiring the applicant to record an offer to dedicate an open space and conservation easement to secure the long-term protection of the ESHA. These conditions assure that the modified development proposal is consistent with the ESHA protection policies of the Half Moon Bay LCP.

2.8 Raptor and Saltmarsh Common Yellowthroat Habitat

2.8.1 Issue Summary

Tree stands located in the northern portion of the project site provide potential habitat for tree nesting raptors. In addition, the site may provide habitat for ground nesting northern harriers. Raptor habitat is protected under the LCP as a habitat for unique species. The site may also provide nesting habitat for the Saltmarsh common yellowthroat. The Saltmarsh common yellowthroat is a California Department of Fish and Game Species of Special Concern. Nesting birds are sensitive to noise and other disturbance related to construction activities. Studies demonstrate that such disturbance can reduce the breeding success of nesting birds. To avoid the potential of significant adverse impacts to nesting birds on the project site, the applicant proposes and the Commission imposes special conditions that require the applicant to conduct a pre-construction survey for nesting raptors and Saltmarsh common yellowthroats and that prohibit construction activities that would disturb any active nests identified.

2.8.2 LCP Standards

Zoning Code Section 18.38.090.A.1, identifies raptors as unique species.

LUP Policy 3-1 defines sensitive habitats to include riparian areas, wetlands, sand dunes, marine habitats, sea cliffs, and habitats supporting rare, endangered, and unique species.

LUP Policy 3-3 prohibits any land use and/or development that would have significant adverse impacts on sensitive habitat areas, and states that development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. Furthermore, all uses shall be compatible with the maintenance of biologic productivity of such areas.

LUP Policy 3-4 permits only resource-dependent or other uses that will not have a significant adverse impact on sensitive habitats and are consistent with U.S. Fish and Wildlife and State Department of Fish and Game regulations.

LUP Policy 3-33 Zoning Code Section 18.38.090.B limit the permitted uses of habitat for unique species to: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails, and (3) fish and wildlife management activities.

2.8.3 Discussion

Sensitive species, such as loggerhead shrikes, Cooper's hawks, and sharp-shinned hawks, whose population levels are already of concern, may nest in the tree stands in the northern project area. In addition, the site may provide habitat for ground nesting northern harriers. Raptor habitat is protected under the LCP as a habitat for unique species. The site may also provide nesting habitat for the Saltmarsh common yellowthroat, which is a California Department of Fish and Game Species of Special Concern. As approved by the City, development of the northern

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portion of the project site would have required the removal of approximately 200 trees. Removal of these trees would result in a loss of nesting habitat with potentially significant adverse impacts to sensitive bird species. However, consistent with the terms of the modified development proposal and the settlement agreement, and as further conditioned by this coastal development permit, the development that would have required this tree removal has been eliminated. As such, these tree stands will not be directly affected by the modified development proposal.

As revised and conditioned to eliminate all of the development north of Stream 3, the development will be several hundred to over a thousand feet from the largest tree stands. The applicant proposes to avoid and/or minimize any remaining impacts to nesting birds through the mitigation measures described in Special Condition 5A(6). For example, development is proposed to occur within less than 100 feet of approximately 50 eucalyptus trees located within the lower portion of the Stream 3 riparian corridor. In order to minimize disturbance impacts to any sensitive bird species that may nest in these trees, Special Condition 5A(6) requires that prior to commencement of grading or any other construction-related activity, a qualified biologist shall conduct a survey of nesting raptors at the project site. If white-tailed kite, Cooper's hawk or other tree-nesting raptors are found, the tree(s) shall be protected from disturbance during the nesting season. A temporary fence shall be placed 200 feet from the drip line of such trees and all grading or construction activities, including storage of materials or equipment, shall be excluded from the fenced area. If ground-nesting northern barriers are found, a temporary fence shall be placed around the nest at a radius of 300 feet and all construction shall be excluded from the fenced area. During the nesting season, the biologist shall monitor the grading or construction site on a biweekly basis. The protection measures shall remain in effect until the biologist has verified that adults have abandoned the nest or the young have left the nest or nest tree.

In addition, Special Condition 5A(6) requires that prior to commencement of grading or any other construction-related activity during the yellowthroat-nesting season, a qualified biologist shall conduct a survey of the project site for nesting salt marsh common yellowthroats. A 100-foot fenced temporary buffer shall be established around any active nest to exclude any construction activity, or any storage of materials or equipment from such buffer. The fence shall remain in place until August 1 of the year or until the biologist verifies that the nest is no longer active. In the event that adult raptors or yellowthroats abandon a nest during grading or construction, the biologist shall within 48 hours prepare and submit a report to the executive director stating the observation and the biologist's professional opinion of the reasons therefore.

In addition, Special Condition 12 permanently prohibits removal of any trees that provided documented nesting habitat for any state or federally listed species of raptor and prohibits all physical development, including grading, from occurring within 100 feet of such trees.

The Commission finds that with the project revisions to retain the existing tree stands in the northern project area and as conditioned to minimize impacts to nesting habitat of any birds nesting in the trees located in the lower Stream 3 corridor, the modified development proposal is consistent with the habitat protection policies of the Half Moon Bay LCP.

2.9 Riparian Corridors

The Commission finds that as conditioned, the modified development proposal is consistent with the Half Moon Bay LCP Policies concerning the protection of riparian corridors.

2.9.1 Issue Summary

The property contains five streams, two are ephemeral or seasonal and three are intermittent or storm water drainages. These streams are indicated on Exhibit 12 as Drainages 1-5. The LCP permits bridges to be constructed in riparian corridors and/or buffers only where no feasible or practical alternative exists. As approved by the City, the project included the construction of seven arched culverts that would bridge the five riparian corridors located on the site (Exhibit 12). However, as subsequently revised by the applicant, five of these bridges have been eliminated, with one bridge each crossing Streams 1 and 2. Because these streams divide the project site longitudinally, no feasible alternative exists to these crossings that would allow access to the areas of the site proposed to be developed.

The LCP does not define the phrase “riparian vegetation” and does not prescribe the manner in which riparian buffer zones are measured. Special Condition 6 specifies how the buffers shall be measured within the project site consistent with a biologically valid definition of riparian vegetation and all other applicable policies of the certified LCP.

2.9.2 LCP Standards

LUP Policies 3-7 through 3-13 specify the LCP definition of riparian corridor, the permitted uses in riparian corridors and buffers, the standards for development affecting riparian areas and buffers, and the minimum width of riparian buffer zones. These requirements are further defined in Zoning Code Section 18.38.075.

LUP Policy 3-11 and Zoning Code Section 18.38.075.D.1 specifies that the riparian buffer along intermittent streams shall be measured 30 feet from the limit of riparian vegetation. The LCP definition of riparian corridor is contained in LUP Policy 3-7.

2.9.3 Discussion

Riparian Buffers

LUP Policy 3-11 and Zoning Code Section 18.38.075.D set the minimum riparian buffer zone for intermittent streams as 30 feet outward from the limit of riparian vegetation or 30 feet from the midpoint of intermittent streams where no riparian vegetation exists. Some portions of the riparian corridors on the site are beneath a eucalyptus canopy. Consequently, these areas are without riparian vegetation and the proposed setback is 30 feet from the midpoint of the stream. In the areas that are not covered by eucalyptus, willows and other riparian vegetation is established. The LCP definition of riparian corridor (below) includes a list of riparian plants common to the area:

3-7 Definition of Riparian Corridors

- (a) Define riparian corridors by the “limit of riparian vegetation” (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least 50% cover of some combination of the plants listed. Emphasis added.

The Commission therefore finds that buffers should be measured from the limit of any vegetation that meets the biologically valid definition of riparian vegetation. Consistent with this interpretation of the above cited LUP policy, the applicant proposes and the Commission

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imposes Special Condition 6A requiring the applicant to measure the riparian buffers along the vegetated portions of Streams 1, 2, and 3 from the limit of any plant species that requires or tolerates soil moisture levels in excess of that available in adjacent terrestrial areas and typically associated with the banks, edges, or terrestrial limits of freshwater bodies, water courses, or surface emergent aquifers.

Stream Crossings

A total of two road crossings are proposed across Streams 1 and 2. Stream 1 would be crossed via an arched culvert, and Stream 2 would be crossed via a bridge that will span the riparian corridor. These crossings are shown on Exhibit 13. Such bridges are permitted within riparian corridors in accordance with LUP Policy 3-9 (b) and Zoning Code Section 18.38.075.B.3 only if no feasible or practical alternative exists and when bridge supports are not in significant conflict with corridor resources.

As discussed in Section 2.4 above, Ailanto proposes to construct an extension of Terrace Avenue to serve the project site. The Terrace Avenue extension would cross Streams 1 and 2, as shown on Exhibit 13. Without these stream crossings, it would not be possible to develop the southern portion of the site. The proposed bridges would span the streams with no supports located within the riparian corridor. Therefore, there are no feasible alternatives to proposed Bridges 1 and 2, and these stream crossings are not in significant conflict with corridor resources. To further ensure that these crossings do not adversely affect riparian habitat, Special Condition 6B specifies that: (1) the bridges must span the streams with no supports located within the riparian corridors, (2) all construction activities, materials and equipment are prohibited from entering the riparian corridors and their respective buffer zones except as necessary for the construction of approved crossings, and (3) temporary construction fencing must be installed prior to the commencement of grading along the outer edge of all riparian buffer zones.

2.9.4 Conclusion

The Commission finds that as conditioned, the modified development proposal is consistent with the LCP policies requiring protection of riparian corridors.

2.10 Wetlands

<p>The Commission finds that, as conditioned, the proposed development will not adversely affect wetlands on the projected site.</p>

2.10.1 Issue Summary

The applicant has provided a delineation of wetlands on the project site that conforms with the definition of wetlands contained in the LCP as verified by the Commission's staff biologist. The modified development proposal eliminates the development in the northern portion of the project site where these wetlands are located and dedicates this area for open space and habitat conservation. No development is proposed within 100 feet of any identified wetland, or within 700 feet of the former agricultural pond. The applicant proposes, and the Commission also imposes, conditions requiring the applicant to prepare and implement a habitat management plan and to install fencing to discourage people and pets from entering the wetland areas. As such, the Commission finds that, as conditioned, the proposed development is consistent with the LCP wetland policies.

2.10.2 LCP Standards

The LCP contains policies that define wetlands and sensitive habitats, specifying uses permitted in and adjacent to such areas, and setting development standards for the protection of these areas. These policies include LUP Policies 3-1, 3-3, 3-4, 3-11, LUP Appendix A, and Zoning Code Sections 18.02.040, 18.38.020.E, and 18.38.080.

2.10.3 Discussion

The Commission's staff biologist has determined that the applicant's wetland delineation dated November 4, 1999 (attached as Exhibit 12) accurately depicts the wetland areas on the site in accordance with the LCP. The delineation shows eight vegetated wet areas, three ephemeral and two intermittent streams and a pond. The Commission notes that the provisions regarding wetlands contained in the certified LCP, including Section 30233 of the Coastal Act, which the City incorporated into its certified LCP, require the protection of all areas within the project site where the water table is near the land surface long enough to support the growth of hydrophytes or to support the formation of hydric soils.

Numerous gullies are located in the area. The site's vegetation has been affected by historic cultivation. Mature eucalyptus and cypress trees exist on portions of the site. The pond and streams contain willows, cypress and other plants associated with wetlands. The 1.6-acre pond shown in the wetland delineation was created in the 1950s as a stock pond. This was accomplished through construction of a 23-foot-high earthen dam on the west side of the pond and diversion of a stream (Stream 3). Stream 4 also drains into the pond and surrounding wetlands. The pond outflows into Stream 5, which eventually leads to Pilarcitos Creek. LUP Policy 3-11(c) states:

Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point, except for man-made ponds and reservoirs used for agricultural purposes for which no buffer zone is designated. [Emphasis added]

This policy is implemented by Zoning Code Section 18.38.080.D, which defines "Wetlands Buffer Zone" as:

The minimum buffer surrounding lakes, ponds, and marshes shall be 100 feet, measured from the high water point, except that no buffer is required for man-made ponds and reservoirs used for agriculture. [Emphasis added]

Chapter 8 of the LUP incorporates the definition of "Agricultural Use" contained in Government Code Section 51201(b) which states:

"Agricultural use" means use of land for the purpose of producing an agricultural commodity for commercial purposes.

Although the pond was originally created for agricultural purposes, the proposed development will not continue this or any other agricultural use on the site. Consequently, a 100-foot buffer is required around the pond in accordance with LUP Policy 3-11(c) and Zoning Code Section 18.38.080.D.

As modified, no portion of any lot line is proposed within 100 feet of the delineated wetlands, including the pond. Thus, the modified development proposal is consistent with the LCP wetland buffer policies.

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The presence of people and pets could be harmful to the sensitive species and habitat in the open space areas north and east of the subdivision. Therefore, Special Condition 5.A.7 requires the applicant to construct a four- to five-foot high fence with a solid base to separate the developed areas, including trails, from the adjacent open space and environmentally sensitive habitat areas. The Commission finds this requirement sufficient to minimize disturbance of the site's wetland areas from humans and domestic animals.

2.10.4 Conclusion

The project plans correctly delineate wetland habitat on the site in accordance with the definition of wetlands contained in the LCP. The modified development proposal provides a 100-foot buffer and additional mitigation measures to protect the wetland areas on the site. As conditioned, no development shall occur within the pond and the wetland and other sensitive habitat areas will be separated from the developed areas of the site with fencing. Therefore, the Commission finds the modified development proposal in conformance with the wetland protection policies of the LCP.

2.11 Visual Resources

The Commission finds that, as conditioned, the modified development proposal conforms to the LCP policies concerning the protection of the scenic qualities of the hillsides inland of Highway 1.

2.11.1 Issue Summary

Because the project site is located at the base of hills inland of Highway 1, the development will not affect views of the coast. However, the development could significantly alter views of the hillsides. The LCP contains policies intended to protect inland views of these hillsides above the 160-foot contour. The LCP also adopts Coastal Act Section 30251, which requires development to minimize the alteration of landforms and be visually compatible with the character of the surrounding areas. To ensure the permanent protection of inland coastal views as required under the LCP, Special Condition 4 prohibits building pads from being situated above the 155-foot contour line, and prohibits grading above the 160-foot contour line, except when necessary for drainage or to implement the public access trail.

2.11.2 LCP Standards

The LCP includes policies intended to protect views of these scenic hillsides. Included in these policies is Zoning Code Section 18.37.020.B, which designates the hillside areas above the 160-foot contour east of the project site as a scenic area, and LUP Policy 7-10, which states that new development on upland slopes visible from Highway 1 shall not involve grading or building siting which results in a significant modification of hillsides. These hillsides are included on the Visual Resources Overlay Map of the LUP.

LUP Policy 9.3.7(c) states that:

(c) No development shall be permitted on slopes in excess of 25% or above the 160' contour and, as a condition of approval, an open space easement shall be dedicated which ensures the permanent retention of such slopes in open space. Development shall be clustered to the maximum extent feasible on lower slopes.

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LUP Policy 9.3.7(g) requires that development of the Dykstra Ranch PUD shall minimize interruption of views of these hillsides, stating:

Structures shall be sited so as to minimize interruption of views of the upper hillsides from Highway 1 and the public recreation area along the shoreline.

2.11.3 Discussion

None of the proposed lots would extend above the 160-foot contour. Also, as conditioned, no portion of any building footprint would be located above the 155-foot contour line, but portions of the homes to be constructed on the upper lots would project above this elevation to as high as the 185-foot contour. In the previous appeal heard by the Commission in 2001, the appellants contended that the LCP prohibits any portion of a structure to project above the 160-foot elevation. LUP Policy 9.3.7(c) specifies that no development shall be permitted on slopes above the 160-foot contour. Given the policies' limitation on development on slopes above the 160-foot contour, no portion of any structure may be constructed on slopes above the 160-foot contour. However, Policy 9.3.7(c) does not prohibit development that projects above this elevation. Consequently, the Commission finds that the modified development proposal conforms with the LCP Policies concerning development on the hillsides above the 160-foot contour elevation.

In addition, Special Conditions 3 and 4 require open space deed restrictions to protect all areas other than residential parcels, roads and the park site. These deed restrictions will protect all portions of the project site above the 160-foot contour line from future development.

2.11.4 Conclusion

The Commission finds that, as conditioned, the modified development proposal will permanently protect the hillsides above the 160-foot contour on the project site from development, consistent with Half Moon Bay LUP Policies 7-10 and 9.3.7(g), and Zoning Code Section 18.37.020.B.

2.12 Water Quality/Polluted Runoff

<p>The Commission finds that, as conditioned, the modified development proposal includes adequate measures to prevent significant adverse impacts to coastal waters quality consistent with the water quality protection policies of the LCP.</p>
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2.12.1 Issue Summary

The modified development proposal includes substantial grading, vegetation removal, and the creation of new impervious surfaces with the potential to increase erosion, sedimentation and runoff with significant adverse impacts to the quality and biological productivity of coastal waters both on and off of the project site. In addition, the use of herbicides, pesticides and other hazardous substances associated with the proposed residential development may further degrade water quality. Polluted runoff and sedimentation could significantly impact the viability of the threatened and endangered species habitat discussed in Section 2.7 above. Therefore, the applicant proposes, and the Commission imposes, special conditions requiring the applicant to submit erosion control and storm water pollution prevention plans for staff review and approval prior to issuance of the coastal development permit. These plans are required to include specific best management practices (BMPs) designed to control construction related and post-construction erosion and polluted runoff.

2.12.2 LCP Standards

LUP Policy 4-8 states that no new development shall cause or contribute to flood hazards. Policy 4-9 requires new development to be designed and constructed to (1) prevent increases in runoff, erosion, and flooding, (2) minimize runoff from graded areas, and (3) dissipate the energy of storm water discharges from outfalls, gutters, and other conduits. The LCP also adopts Coastal Act Policy 30253, which requires new development to neither create nor contribute significantly to erosion or destruction of the site or surrounding area, and Coastal Act Section 30231 which requires protection of the biological productivity and quality of coastal waters.

In addition to these policies directly addressing storm water runoff, erosion, and flooding, the LCP policies discussed in Sections 2.7.2, 2.8.2, 2.9.2, and 2.10.2 above concerning protection of wetlands, riparian areas, and other sensitive habitat areas must be considered when evaluating the potential impacts of the project due to storm water runoff and erosion.

2.12.3 Discussion

Site Drainage Characteristics

The project site drains to the west by sheet flow, channelized flow through the five streams running through the site, and by shallow (perched) groundwater flow. The site contains springs, seeps, and wet areas, particularly in the northern portion of the site near the pond. Streams 4 and 5 flow into the pond on the site, which originate to the east in the Chesterfield Watershed (Exhibit 14). The pond is drained by Stream 5 which flows off the site to the northwest and drains into ditches and culverts along Grandview Boulevard and Highway 1, eventually discharging into Pilarcitos Creek.

The project site is part of the Terrace Avenue Assessment District, which was formed in the early 1980s to construct storm drain facilities for this area. Streams 1 and 2 are intercepted by existing storm drains at the western edge of the property. As discussed in Section 2.9 above, Stream 3 was diverted in the 1950s to help fill the pond. Subsequent siltation and construction of berms has redirected most of the flow back into the natural, westerly flowing channel, which is intercepted downstream by a 48-inch storm drain pipe on the Beachwood property.

Project Impacts

The modified development proposal could result in adverse impacts to coastal water quality both on and off site through increased storm water runoff from new impervious surfaces, sedimentation resulting from grading and vegetation removal, and use of herbicides, pesticides and other hazardous substances. Polluted runoff and sedimentation could significantly affect the viability of the threatened and endangered species habitat discussed in Section 2.7 above.

The modified development proposal includes substantial grading, road construction, vegetation removal, and other construction related site disturbance that could result in significant impacts to the wetlands and riparian areas on the site as well as to off-site coastal waters due to erosion and sedimentation. The project plans show that a substantial volume of the runoff from rooftops and paved areas will be directed into a storm drain system that discharges into Pilarcitos Creek. Pilarcitos Creek is identified in the LCP as an important riparian habitat area and is known to provide habitat for the California red-legged frog. Polluted runoff from the project site could significantly impact this waterways. Also, Pilarcitos Creek discharges directly into the sea.

Mitigation Measures

To ensure the protection of coastal water quality and biological productivity from impacts associated with grading, vegetation removal and other construction-related activities, the applicant proposes, and the Commission imposes, Special Condition 8 requiring the applicant to implement specific erosion and polluted runoff control measures in accordance with an approved erosion control plan. The erosion control plan is required to include specific BMPs to address: (1) erosion and sediment source control, (2) runoff control and conveyance, (3) sediment capturing devices, and (4) chemical control. The condition requires monitoring and maintenance of all erosion control BMP devices.

In addition to the measures required under Special Condition 8, Special Condition 9 requires the applicant to prepare and implement a storm water pollution prevention plan (SWPPP) to provide for long-term polluted runoff control. Special Condition 9 requires the SWPPP to include specific BMPs to: (1) minimize the creation of impervious surfaces, (2) reduce polluted runoff from roads and parking lots, and (3) control polluted runoff related to irrigation and use of chemicals associated with landscaping, and requires long-term maintenance of these BMP devices. Special Condition 9 also requires the applicant to implement an approved water quality monitoring plan that includes specific quality standards to evaluate the effectiveness of the SWPPP in protecting the quality of both surface and groundwater. Finally, Special Condition 9 requires the applicant to take corrective actions as needed to remedy any failure to obtain the water quality standards specified in the approved water quality monitoring plan.

2.12.4 Conclusion

The Commission finds that as conditioned to control both construction and post-construction related polluted runoff and to require long-term water quality monitoring and protection, the modified development proposal is consistent with the erosion control and water quality protection policies of the Half Moon Bay LCP.

2.13 Conversion of Agricultural Lands

Although the modified development proposal will result in the conversion of 36 acres of prime agricultural lands to residential use, agricultural use of the site is limited by conflicts with urban uses and is therefore designated in the LUP as an area suitable for development. Therefore, the proposed conversion of agricultural lands is consistent with the City of Half Moon Bay LCP.

2.13.1 Issue Summary

In the past, the lower slopes and flatlands within the 114-acre Pacific Ridge site were used for pasture. Approximately 36 acres of the site (32 percent) contain Class II soils as shown on the U.S. Department of Agriculture Soils Conservation Service Soil Survey (USDA 1961) and are therefore classified as prime agricultural lands under the LCP (Exhibit 8). The modified development proposal would commit these prime agricultural lands to urban use and open space conservation.

2.13.2 LCP Standards

The LCP incorporates Coastal Act Sections 30241 and 30242, which provide that the maximum amount of prime agricultural land shall be maintained in agricultural production and that conversion to nonagricultural uses of other non-prime lands shall be limited. Conformance with

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these policies is to be accomplished through, among other means, the establishment of stable urban/rural boundaries and by limiting conversion of agricultural lands where the viability of agricultural uses is severely limited by conflicts with urban uses.

The LUP adopts the Coastal Act definition of prime agricultural lands, which incorporates by reference Government Code Section 51201. This definition includes all land that qualifies for rating as Class I or Class II in the Soils Conservation Service land use capability classifications.

LUP Policy 8-12 sets the urban/rural boundary for the region as the Half Moon Bay City Limit.

Coastal Act Section 30250(a), also incorporated into the LCP, requires that new development shall be located within, contiguous with, or in close proximity to existing developed areas.

2.13.3 Discussion

Chapter 8 of the LUP provides for the urbanization of former agricultural lands where farming is no longer economically viable. The land use designations and agricultural policies of the LUP establish a system for phasing the conversion of agricultural lands to urban use. The criteria used to form this phasing plan include availability of necessary infrastructure, proximity to existing developed areas, and parcel size. Lands clearly no longer suitable for agriculture are designated for development first. Lands that are expected in the short term to be suitable for agricultural use are designated as Urban Reserve. These lands are to be developed only after substantial build-out of the lands designated for development. The LUP designates lands capable of continuing to support viable agricultural uses (at the time that the LUP was certified in 1985) as Open Space Reserve. Open Space Reserve lands may be developed under the LUP only after all other remaining lands in the City suitable for development have been developed or committed to other uses. Chapter 9 of the LUP further provides that new development shall be located within, contiguous with, or in close proximity to existing developed areas to (1) avoid urban sprawl, (2) prevent premature commitment of rural lands to development, and (3) preserve the maximum amount of land in urban areas suitable for agricultural use.

All undeveloped lands designated in the LUP as potentially suitable for new residential development are classified into six categories in accordance with their relationship to existing development, prior commitment to urbanization, and the coastal resource protection policies of the Coastal Act. These categories are intended to prioritize development within the City as follows:

1. Existing Neighborhoods. In-fill development of existing neighborhoods.
2. Paper Subdivisions. Undeveloped areas previously committed to urbanization by subdivision.
3. Contiguous Unsubdivided Lands Without Significant Resource Value. Unsubdivided lands generally contiguous with or surrounded by existing development without significant agricultural, habitat, or coastal recreational value.
4. Unsubdivided And Other Lands Not Contiguous With Existing Development Without Significant Resource or Recreational Value. The Wavecrest Restoration Project is the only area in the City that falls within this category.
5. Unsubdivided Lands Contiguous with Existing Development and Having Agricultural, Coastal Recreation or Habitat Value.

6. Unsubdivided Lands not Contiguous with Existing Development and Having Agricultural, Coastal Recreation, Habitat, and Scenic Value.

The LUP designates the Pacific Ridge Development site as a Category 3 area suitable for development.

2.13.4 Conclusion

The project site is not currently in agricultural production, and is not considered a viable agricultural site under the LUP. The site is located within the urban rural boundary and is contiguous with the existing Grandview Terrace and Newport Terrace subdivisions. Agricultural use of the site is limited by conflicts with urban uses. For example, pesticide use would be restricted due to proximity to residential development and to the high school. For all of these reasons, the project site is designated in the LUP as an area suitable for development. Therefore, the Commission finds that the modified development proposal is consistent with the City of Half Moon Bay LCP provisions regarding the conversion of agricultural lands.

2.14 California Environmental Quality Act

The City, acting as lead agency pursuant to California Environmental Quality Act (CEQA), certified an EIR for construction of 228 detached, single-family homes at Pacific Ridge on October 13, 1988.

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full, including all associated environmental review documentation and related technical evaluations incorporated by reference in this staff report. These findings address and respond to all public comments regarding significant adverse environmental effects of the project that were received prior to preparation of the staff report. As specifically discussed in the findings set forth above, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required and incorporated into the modified development proposal. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the modified development proposal, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

**SETTLEMENT AGREEMENT BETWEEN AILANTO
PROPERTIES, INC., THE CITY OF HALF MOON BAY,
AND THE CALIFORNIA COASTAL COMMISSION**

This document is a Settlement Agreement between Ailanto Properties, Inc., the City of Half Moon Bay, and the California Coastal Commission ("the Parties").

THE ACTIONS

On April 13, 2001, Ailanto Properties, Inc. ("Ailanto") filed litigation against the California Coastal Commission ("the Commission") seeking among other remedies a peremptory writ of mandate, declaratory relief, and damages for a taking and deprivation of constitutionally protected rights ("the Litigation"). The Litigation is currently pending before the San Mateo County Superior Court. *Ailanto Properties, Inc. v. California Coastal Commission et al.*, No. 416540. Among the Commission's actions which Ailanto challenges in the Litigation are the imposition of conditions as evidenced in the Commission's August 31, 2001 Corrected Notice of Intent to Issue Permit ("the Approval") for a coastal development permit ("the CDP") for Ailanto's housing development project in the City of Half Moon Bay, known as the "Pacific Ridge Subdivision Development in Half Moon Bay" ("the Project"). The Litigation also includes a cause of action for damages against the City of Half Moon Bay ("the City").

On April 17, 2001, Ailanto filed further litigation against the City. *Ailanto Properties, Inc. v. The City of Half Moon Bay et al.*, San Mateo County Superior Court No. 416573 ("the First City Litigation"). The issues in the First City Litigation involve the validity of a vesting tentative subdivision map approved by the City in 1990 for the Project ("the VTM"), in light of a series of development moratoria, the time spent by the Commission in its processing of the CDP, and the Litigation. The First City Litigation is currently pending in the Court of Appeal. *Ailanto Properties, Inc. v. The City of Half Moon Bay et al.*, Case No. A098920.

On May 6, 2002, Ailanto also filed additional litigation against the City. *Ailanto Properties, Inc. v. The City of Half Moon Bay et al.*, San Mateo County Superior Court No. 422561 ("the Second City Litigation"). The issues in the Second City Litigation involve the continuing validity of the VTM approved by the City in 1990 for the Project, in light of the City's approval of a CDP for 197 homes in the Project, an appeal of that approval to the Commission, and the Commission's approval of a CDP for a smaller project than that envisioned in the VTM approved by the City.

RECITALS

A. Ailanto, the City and the Commission each desire to settle the Litigation, the First City Litigation, and the Second City Litigation, without admission of fact or law.

B. This Settlement Agreement is therefore intended to resolve the current disputes raised in the Litigation, the First City Litigation and the Second City Litigation.

C. To resolve these disputes and to resolve the merits of each of these cases, and to avoid the time, expense and uncertainty of the outcome of further litigation, Ailanto, the City, and the Commission wish to enter into this Settlement Agreement.

NOW THEREFORE, Ailanto, the City, and the Commission stipulate that each of these cases shall be settled on the following terms and conditions, and each accordingly agrees to the following:

AGREEMENT

1. Each of the parties shall execute this Settlement Agreement.
2. After City issuance of the coastal development permits specified in Paragraph 7 of this Settlement Agreement, the Settlement Agreement shall be presented to the San Mateo County Superior Court in the case of *Ailanto Properties, Inc. v. California Coastal Commission et al.*, No. 416540, with a request that it be entered as a stipulated judgment of the Court. At its discretion, Ailanto may determine to make this request by motion, with notice to parties chosen by Ailanto. The form of the stipulated judgment to be presented to the Court is attached hereto as Exhibit A.
3. The stipulated judgment shall include a directive that a writ of mandate be issued to the Commission, remanding the proceedings involving the Approval of the CDP to the Commission for further proceedings, with instructions that it consider a modification of its Approval of the CDP as specified herein. The jurisdiction of the Commission during such proceedings shall be limited only to consideration of the modification of the Approval of the CDP as specified herein, and shall not extend to reconsideration or consideration anew of its Approval of the CDP. The form of the writ of mandate that the parties shall request be issued by the Court is attached hereto as Exhibit B.

4. Within ninety days following issuance of the writ of mandate, or within one hundred eighty days of the submission by Ailanto of the information specified in Paragraph 6, or within one hundred eighty days of the submission by Ailanto of any supplemental information to the Commission, if requested by Commission staff pursuant to Paragraph 6, whichever occurs later, the Commission shall hold a regularly noticed public hearing at which it will act pursuant to the writ of mandate and consider the modification of the Approval of the CDP as specified herein.

5. Pursuant to the writ of mandate, and at the regularly noticed public hearing specified in Paragraph 4, the Commission shall determine by vote whether the Approval of the CDP shall be modified as specified in this Paragraph:

A. Approval Of Parcels And Homes: The Approval shall be modified to approve a modified coastal development permit ("the MCDP") for (i) a subdivision of sixty-five parcels, one of which shall be an open space parcel (which may include noncontiguous portions), one of which shall be a park parcel, and sixty-three of which shall be for the construction of homes, and (ii) the construction of sixty-three homes. ("Homes" as used herein includes the necessary appurtenances and associated infrastructure improvements necessary for the residential use of the parcels created for that purpose.) The MCDP shall also specify that the sixty-three homes shall include no more than a total of 285,000 of habitable square feet in floor area, and that Ailanto may select the square footage of the various sized homes and the lots upon which the homes will be built. However, no home shall have more than 5,000 of habitable square feet in floor area.

B. Parcel And Home Locations: All development authorized by the MCDP shall be within the areas depicted in yellow on Exhibit C hereto, except that roads may also be developed outside of that envelope as depicted on Exhibit C. The location of the parcels pursuant to the Approval, as modified, is generally indicated on Exhibit C.

C. Special Condition Number 1 Of The Commission's Approval: Special Condition No. 1 of the Approval (habitat buffer consisting of former Lots 124-131 in the Commission's Approval) shall remain unchanged and in full force and effect.

D. Special Condition Number 7 Of The Commission's Approval: Special Condition No. 7 of the Approval (the lot retirement condition) shall be deleted in its entirety and a new Special Condition 7 shall be substituted in lieu thereof to read as follows:

The applicant shall pay to the City the total sum of \$2,835,000 as a cumulative traffic mitigation contribution fee ("the in-lieu CTMC fee"). The in-lieu CTMC fee represents the payment of \$45,000 per lot, for each of the sixty-three parcels on which homes will be built. The in-lieu CTMC fee shall

be used by the City for the purpose of acquiring and retiring development rights on existing legal parcels in the City.

The in-lieu CTMC fee shall be paid in the following manner: (1) a one-time amount of \$150,000 shall be paid to the City, after issuance of the permit by the Commission, at the time of the first recordation by the City of a final subdivision map for any phase of the Project in which at least one residential lot is included; (2) \$1,342,500 shall be paid within two years thereafter, or at the time of issuance of the first building permit by the City for a home on a new subdivided parcel or at the time of sale of the first such subdivided residential parcel, whichever occurs first; and (3) \$1,342,500 shall be paid within one year thereafter. The payment of the first \$1,342,500 shall fully vest Ailanto's rights to complete all of the homes approved hereby.

The applicant's responsibility to the Commission and the City to mitigate the cumulative traffic impacts of its project is discharged by payment of the in-lieu CTMC fee specified in this Special Condition and the costs specified in Special Condition Number 11, and no further traffic mitigation obligations or exactions will be imposed as part of satisfying the conditions of the City's vesting tentative subdivision map, any other City approval, or the permit. The Commission and the City assume the risk that the in-lieu CTMC fee may not be sufficient to achieve the retirement of development rights on a desired number of parcels. Correspondingly, the applicant recognizes that it is not entitled to any refund of any portion of this payment in the event that the payment exceeds the amount sufficient to retire development rights on a desired number of parcels, or any refund of the \$150,000 one-time payment under any circumstances.

In order to ensure payment of the in-lieu CTMC fee, prior to issuance of the MCDP, the applicant or any successor shall submit to the Executive Director for review and approval a standby letter of credit for the amount of the CTMC fee. The letter shall be from a lender who is sufficiently reputable to assure payment of the funds at the appropriate time. The Executive Director shall approve the letter of credit if the letter is consistent with this condition. After approval by the Executive Director and prior to issuance of the MCDP, the Applicant shall deposit the letter with the Commission. The letter of credit may be revoked by Ailanto only if (a) the in-lieu CTMC fee is paid in full; (b) the permit expires without commencement of development (which includes recordation of a final subdivision map); or (c) the applicant surrenders the permit and relinquishes all rights under it, and reverts any subdivision to conditions existing prior to approval of the permit (including merger of all subdivided parcels). As long as the applicant complies with these requirements, it may revoke the letter of credit under (c) for any reason. The

letter of credit shall be interpreted to allow revocation only under the foregoing circumstances, and if the applicant or successor succeeds in revoking the letter of credit under other circumstances without Commission approval, this shall be deemed to be a violation of the permit. The letter of credit shall provide that the Commission may draw funds at any time a CTMC payment obligation under the Settlement Agreement is overdue by more than seven calendar days

The applicant, the City and the Commission anticipate that the first final subdivision map for the project will be recorded within three years of approval of the permit and that the three payments specified in the second paragraph of this condition will be made within three years, five years, and six years respectively of that approval ("the Original Timeline"), although these deadlines may be postponed pursuant to the tolling provisions of Special Condition No. 13. Any payments made after they would be due under the Original Timeline shall be increased proportionately to any increase in the median home price in San Mateo County between the due date under the Original Timeline and the time of payment. Median prices shall be based on figures obtained from the San Mateo County Association of Realtors.

E. Special Condition Number 11 Of The Commission's Approval: Special Condition 11 of the Approval of the CDP (access condition) for the Project shall be deleted in its entirety and a new Special Condition 11 shall be substituted in lieu thereof to read as follows:

Terrace Avenue may be used as the vehicular access route for the Project, and for required development and construction. The applicant shall be responsible for repairing any damage to Terrace Avenue caused by development and construction. In addition to the in-lieu CTMC fee required by Special Condition Number 7, the applicant shall also fund the costs of any signalization, and the widening of Highway 1 necessary therefor, at the intersection of Terrace Avenue and Highway 1, up to the standards therefor of the California Department of Transportation.

F. Standard Condition Number 2 Of The Commission's Approval: Standard Condition 2 of the Approval of the CDP (permit extension) shall be superseded by the following Special Condition No. 13 which shall be substituted in lieu thereof to read as follows:

13. Expiration. Standard Condition 2 of the Approval of the CDP shall be superseded in its entirety by this condition. If development (which includes recordation of a final subdivision map for any portion of the project) has not commenced, this permit will expire three years following approval by the

Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date. The expiration date of this permit shall be tolled, without regard to the length of time, for the same time as the time during which litigation is pending challenging the validity of that Settlement Agreement between the applicant, the Commission and the City of Half Moon Bay, or challenging the Commission's or the City's approval of that Settlement Agreement or the permit, or challenging the coastal development permits described in Paragraph 7 of that Settlement Agreement. The expiration date of this permit shall also be tolled during any period of time that an administrative appeal is pending before the Commission involving either of these coastal development permits, and for the time necessary to obtain CalTrans approval for construction of the improvements authorized by the Terrace CDP, all as specified in Paragraph 7 of that Settlement Agreement. In addition to these tolling provisions, the Commission shall grant further extensions of the permit unless there are changed circumstances affecting the consistency of the permit with the LCP. See 14 Cal. Code Regs. §13169. Moratoria and incremental worsening of regional traffic conditions shall not constitute "changed circumstances" precluding permit extensions. Litigation shall be considered "pending" for purposes of this condition from the earliest date on which a lawsuit or lawsuits is or are commenced until the date on which: (a) a final judgment or decree has been entered in any and all such lawsuit(s) and all applicable judicial appeal periods with respect thereto have expired, with no pending or contested actions, (b) a request for voluntary dismissal of any and all such lawsuit(s) has been filed and dismissal has been entered by the Court, or (c) a settlement has been entered into by the parties to any and all such lawsuit(s) on mutually agreeable terms and conditions.

G. Special Condition 4 of the Commission's Approval: Special Condition 4 of the Approval of the CDP (scenic view condition) for the Project shall be amended to read as follows:

1. No building pad for any home in the Project may be situated above the 155 foot contour line as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit. No grading shall occur above the 160 foot contour line as described and depicted in an Exhibit attached to the NOI for this permit, except for the installation of v-ditches or other drainage as may be required by geotechnical engineering review and erosion repair in order to comply with Special Condition 8 of the permit and such minor grading as may be required to fulfill any other requirement of the Settlement

Agreement between the applicant, the Commission and the City of Half Moon Bay.

2. Prior to issuance of the NOI for this permit, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit C to the Settlement Agreement between the applicant, the Commission, and the City of Half Moon Bay.

H. Park Dedication And Open Space: Ailanto shall dedicate in fee to the City for public park purposes the lot shown on Exhibit C as "Dedicated Parksites." The Commission may impose a "prior to issuance" condition requiring the Applicant to preserve the open space area depicted on Exhibit C (i.e., all areas other than residential parcels, roads, and the dedicated park site) using an appropriate irrevocable legal instrument. The legal instrument shall include a precise legal description of the area to be protected from development.

I. Deed Restriction: Prior to issuance of the permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

J. Infrastructure For Project: Except as provided in Paragraph 7, no additional coastal development permit is required under the California Coastal Act of 1976, as amended, for any utility connections or services from existing facilities necessary to serve the Project, such as water supply, sewage lines, electrical, gas, and cable. Any such additional utility service and connections shall be legally and physically constrained, to the extent feasible, so that they serve only the Project.

K. “Prior To Issuance” Condition: If, at the time of the Commission vote, Ailanto continues to have the right under the Settlement Agreement between Ailanto, the City of Half Moon Bay and the Commission to terminate the Settlement Agreement even if the Commission modifies its Approval as described in that Settlement Agreement, the Commission may impose a “prior to issuance” condition providing that the MCDP will not be issued until the Settlement Agreement becomes final and binding on all parties (e.g., the conditions specified in Paragraph 10 of that Settlement Agreement are satisfied), or Ailanto otherwise relinquishes all rights to terminate the Settlement Agreement.

L. Other Conditions Unchanged: All other conditions imposed in the Commission’s Approval of the CDP for the Project, other than Special Condition 5(E) which is deleted, shall not be altered; provided, however, that the Commission may alter a Special Condition if necessary to reflect the language used in such conditions as are regularly imposed by the Commission on similar projects, and to address any new on-site impacts caused by modification of the Project that were not previously analyzed by the Commission in the Approval.

6. Information And Time Schedule For Coastal Commission

Consideration Of Modified Coastal Development Permit: In order to facilitate Commission consideration of a MCDP, Ailanto shall provide the following material to Commission staff:

- a. A subdivision map showing the proposed configuration of the lots and building envelopes;
- b. Site plans, and representative floor plans and elevations for proposed residences;
- c. Plans for storm drains, sewer, water, and other utility lines;
- d. Plans and cross sections for proposed infrastructure improvements, including streets, bridges/stream crossing, and street lights;
- e. Plans and details for public trails, park and other public facilities;
- f. A preliminary grading plan;
- g. Preliminary drainage and erosion control plans;
- h. Landscaping and irrigation plans; and
- i. A riparian corridor survey.

Ailanto may submit this information either individually, in groups or as a package in preliminary form, and Commission staff shall informally advise Ailanto whether the information so submitted appears to meet the requirements of this Paragraph and is sufficient to provide an appropriate basis for Commission action on the MCDP. Upon submission by Ailanto of all of the information specified in this Paragraph, Commission staff shall also have thirty days to request supplemental information, if necessary, regarding the items specified above. If such supplemental information is requested, Ailanto shall provide it within thirty days of the request. So long as Ailanto provides the information and any requested supplemental information as specified in this Paragraph, Commission staff shall recommend approval to the Commission of the MCDP, with the conditions described in this Settlement Agreement. Prior to Commission action on the MCDP, Ailanto need only submit a preliminary grading plan and preliminary drainage and erosion control plans, and final plans for such shall be approved, if the Commission approves the MCDP, by the Executive Director so long as in substantial conformity with the preliminary plans.

Nothing in this Paragraph shall preclude Commission staff from requesting additional information from Ailanto at any time, and Ailanto shall make reasonable efforts to comply with such requests, but any such requests for additional information shall not affect the time specified in Paragraph 4 by which the Commission shall consider the MCDP nor shall it alter the Commission staff obligation to recommend approval to the Commission of the MCDP as specified in this Paragraph. The parties recognize that the Commission may require a level of specificity greater than that shown in Exhibit E.

7. Coastal Development Permits For Signalization Of Terrace Avenue And Widening of Highway One, And For Water Line To Serve Project:

(a) After execution of this Settlement Agreement, if they have not already done so, the parties will take appropriate steps to stay the Litigation, the First City Litigation, and the Second City Litigation, during which time the City shall hold proceedings to decide whether to issue a coastal development permit ("the Terrace coastal development permit") for the signalization of Terrace Avenue and the widening of Highway 1 necessary therefor. The staff of the City shall recommend that the City approve this Terrace coastal development permit. If the City denies the Terrace coastal development permit or has not approved it within 180 days of the execution of the Settlement Agreement, or if any administrative appeal involving the Terrace coastal development permit is then pending, the parties shall within ten days thereafter meet and confer regarding how to proceed. Under any of the circumstances described in the foregoing sentence, Ailanto shall have the right to nullify the Settlement Agreement and resume litigation of all claims remaining immediately prior to the execution of the Settlement Agreement. The parties shall cooperate to attempt to expedite this Terrace coastal development permit process as much as possible. The current life of the City's

VTM for the Project shall be tolled for (i) the time during which any administrative appeal is pending regarding the City's decision on the Terrace coastal development permit, (ii) the 180-day and the additional 10-day periods specified in this Paragraph 7(a), and (iii) any time necessary to obtain CalTrans approval for the signalization of Terrace Avenue and the widening of Highway 1.

(b) The parties also recognize that the signalization and widening of Highway 1 at Terrace Avenue cannot occur without an application to, and the approval of, the California Department of Transportation ("CalTrans"). In order to facilitate this application and approval, the City shall be named as the applicant for such approval, but Ailanto shall be responsible for processing the application and providing, at its cost, such information and materials as may be required by CalTrans. Ailanto and the City shall actively cooperate in all respects with regard to this application and its processing, in order to obtain CalTrans' approval as expeditiously as possible.

(c) As specified in Paragraph 5(E) of this Settlement Agreement, Ailanto shall provide the funding to the City for City construction of the improvements. This funding shall be provided at the time of CalTrans' approval, so long as the coastal development permit specified in Paragraph 7(e) has been issued and is final and water connections remain available from the Coastside County Water District. Upon receipt of this funding, the City shall expeditiously construct and complete the improvements within a maximum of one year after CalTrans' approval. No occupancy permit will be granted by the City for any home in the Project until these improvements have been constructed, but the restriction imposed by this sentence shall automatically become inoperative if the City fails to construct these improvements within one year after receipt of funding from Ailanto. The current life of the City's VTM for the Project shall be tolled for such time as may be necessary to obtain CalTrans' approval and for the time necessary for the City's construction of the improvements.

(d) Notwithstanding Paragraph 7(c), at any time the City and Commission may jointly decide to require that Ailanto make funding irrevocable by a letter of credit, similar to that specified in Paragraph 5(D) of this Settlement Agreement (but subject to the same exceptions as specified therein), in an amount sufficient to fund the signalization and widening project. This amount shall be jointly determined by the parties to this Settlement Agreement based on the criteria of the California Department of Transportation and after consultation with that agency. Upon such determination, the procedure described in Paragraph 2 of this Settlement Agreement shall immediately follow, and further implementation of the Settlement Agreement will not be delayed or contingent upon approval of the Terrace coastal development permit. If the City and Commission require Ailanto to make funding irrevocable by a letter of credit pursuant to this Paragraph 7(d), the restriction on issuance of occupancy permits specified in Paragraph 7(c) shall not apply.

(e) If a water line from the existing Carter Hill tanks or pipeline is to be built to supply the project, the City will require a coastal development permit. Any analysis of such a water line required by the California Environmental Quality Act shall be limited to the water line and not a new review of the Project as a whole. If the City denies this coastal development permit, has not approved the permit within 180 days of execution of this Settlement Agreement, or if any administrative appeal involving this coastal development permit is then pending, the parties shall within ten days thereafter meet and confer regarding how to proceed. Under any of the circumstances described in the foregoing sentence, Ailanto shall have the right to nullify the Settlement Agreement and resume litigation of all claims remaining immediately prior to the execution of the Settlement Agreement. The parties shall cooperate to expedite this coastal development permit process as much as possible. The current life of the City's VTM for the Project shall be tolled for (i) the time during which any administrative appeal is pending regarding the City's decision on this coastal development permit, and (ii) the 180-day and the additional 10-day periods specified in this Paragraph 7(e).

8. **Return To Writ of Mandate:** The Commission shall file with the Court and serve on Ailanto and the City a return to the writ of mandate issued by the Court pursuant to the stipulated judgment specified herein. The return shall specify the actions taken to comply with the terms of the writ and shall inform the Court in detail of the action taken by the Commission with respect thereto. Ailanto may file objections, if any, to the return within fifteen days after service. Upon a determination by the Court that the actions taken by the Commission complied in all respects with the writ, the Court shall discharge the writ. At its discretion, Ailanto may determine to provide notice to parties chosen by Ailanto, prior to any action by the Court.

9. **Formal Lot Retirement Program/Consultation Between City And Commission:** By this Settlement Agreement, the City commits to implementing the lot retirement program described in Paragraph 5(D). The City shall also seek to amend its local coastal program to include a lot retirement program. Until such an amendment occurs, the City shall obtain the written agreement of the Commission's Executive Director prior to expending any of the in-lieu CTMC fee specified herein, other than expenditures from the one-time \$150,000 initial payment.

10. **Effect of City Vote and Compliance with Writ of Mandate:** If the vote of the City to approve this Settlement Agreement is not a unanimous 5-0 vote, Ailanto may, at its discretion, void this Settlement Agreement. If at any point it seems likely, in the exercise of Ailanto's discretion, that CalTrans will not approve the improvements authorized by the Terrace coastal development permit, Ailanto may also void this Settlement Agreement. However, if (a) pursuant to the writ of mandate, the Commission approves the MCDP as specified herein; (b) the coastal development permits specified in Paragraph 7 are issued and become final; and (c) CalTrans approves the improvements authorized by the Terrace coastal development, this Settlement

Agreement shall thereupon become final and binding on the Parties. If any of the contingencies specified in the preceding sentence fail to occur, or if Ailanto voids this Settlement Agreement pursuant to this Paragraph, this Settlement Agreement shall be of no further force or effect, the MCDP shall be of no further force and effect and Ailanto shall have no rights thereunder, and the Parties hereto shall retain all such rights as they may currently possess against each other, including, but not limited to, the City's claim that the current VTM has already expired.

11. Relationship of Modified CDP and Vesting Tentative Map:

The City agrees that the Project, if approved by the Commission with the MCDP as specified herein, is consistent with, and permitted by, the VTM approved by the City for the Project in 1990. It reaches this conclusion in the exercise of its discretion, primarily because of the reduced environmental impacts (including traffic, biological and air quality impacts) of the Project, the significantly reduced number of lots, the applicability of most of the original VTM conditions to the modified Project, and the substantial additional benefits achieved for the City and the public in this agreement. The parties agree that the Vesting Tentative Map shall expire ten years after the date on which the Commission approves the MCDP. Pursuant to Government Code section 66452.6, subdivision (c), the VTM shall be further extended for up to a maximum of five additional years for the same time as the time during which litigation is pending challenging the validity of that Settlement Agreement between Ailanto, the Commission and the City of Half Moon Bay, challenging the Commission's or the City's approval of this agreement or the MCDP, challenging an action of any other agency to implement the Project, any moratoria affecting construction of the Project, or challenging either of the coastal development permits or the CalTrans approval of the Terrace CDP, all as specified in Paragraph 7 of this Settlement Agreement. Except for this potential extension, the life of the VTM shall not be further extended or stayed automatically. Ailanto shall not be entitled to any additional extension or stay pursuant to any other statutory provision, including subdivision (a)(1) of Government Code section 66452.6, or any other statutory provision hereinafter enacted by the Legislature, unless such extension or stay is approved by the City. Nothing in this Agreement shall obligate the City to approve any such extension or stay, or to in any way limit the City's discretion to grant, condition or deny such an extension or stay, except for the automatic five-year extension for the events described above. However, Ailanto shall have the right, at its discretion, to file and record, after City approval, phased final maps for portions of the Project.

12. **City Conditions:** Except for those conditions listed in Exhibit D which no longer apply, this Settlement Agreement is not intended to alter the City's conditions, zoning, or other regulations legally applicable to the Project. *All submissions to the Coastal Commission, its staff, or its Executive Director required under this Settlement Agreement shall be copied simultaneously to the City.*

13. No Further Discretionary Approvals And Vesting Of Rights: With the exception of the coastal development permits specified in Paragraph 7 of this Settlement Agreement, the Parties agree that no further discretionary approvals of any kind, legislative or administrative, are required from the City or the Commission to subdivide the parcels or build out the homes permitted by this Settlement Agreement and the MCDP, or for any necessary infrastructure, appurtenances or slope restoration required to implement the MCDP, with the exception of administrative design review by the City for appearance and siting of the homes, and that no further review is required by the City or the Commission for any aspect of the Project under the California Environmental Quality Act. The standards for design review are included in Exhibit E hereto, and are limited only to issues involving appearance and siting of the homes. All homes shall generally be of the same type and style as those previously approved by the City in design review. Ailanto agrees that each home permitted by this Settlement Agreement shall meet current Building Code standards. All development shall be served exclusively by the Coastside County Water District Non-Priority Phase I Crystal Springs Project service connections.

14. Inapplicability Of Measure A And Measure D. The construction of any of the homes authorized in this Settlement Agreement and pursuant to the MCDP are not subject to either Half Moon Bay Measure A or Half Moon Bay Measure D, or to any other City law, rule or regulation, existing or enacted in the future, that would have the effect of limiting or preventing Ailanto from subdividing the property and building the homes so authorized. However, development of the Project shall be phased as follows: Ailanto may build only forty of the homes authorized in this Settlement Agreement and pursuant to the MCDP within the first three years following final subdivision map recordation by the City for any phase of the project for the first residential parcels. The remaining twenty-three homes, plus any homes less than forty not built within such initial time period, may thereafter be built as desired by Ailanto. By September 30 of each year, Ailanto will make a good faith effort to provide an estimate to the City of the number of building permits it expects to pull during the following year. All homes shall be built and completed within eight years of the start of construction on any individual lot in the Project.

15. Retention of Jurisdiction, Enforcement, Costs and Attorney's Fees, and Other Provisions:

15.1. Court's Retention Of Jurisdiction: Once this Settlement Agreement is signed by the parties, the parties, if they have not done so already, shall request the appropriate courts to stay the Litigation, the First City Litigation and the Second City Litigation pending City review of the coastal development permits specified in Paragraph 7 herein and pending Commission consideration of the MCDP specified herein. The parties stipulate that the Superior Court of San Mateo County shall retain jurisdiction over the parties to enforce the Settlement Agreement, the stipulated judgment

to be entered pursuant thereto, and the writ of mandate to be issued pursuant thereto and thereafter, until the terms of each are performed in full. Any party may seek termination of such jurisdiction on the ground that the parties have discharged their obligations under the Settlement Agreement.

15.2 Dismissal of Claims Against City In The Litigation: If the Commission approves the MCDP as specified herein, within fifteen days after the Commission files its return to the writ of mandate as described herein Ailanto shall dismiss its claim for damages against the City from the Litigation, with prejudice.

15.3. Vacation Of Judgment, And Dismissal, In The First City Litigation: If the Commission approves the MCDP as specified herein, within fifteen days after the Commission files its return to the writ of mandate as described herein, Ailanto and the City shall request the Court of Appeal before which the appeal in the First City Litigation is pending to vacate the judgment entered by the San Mateo County Superior Court and to direct the Superior Court to dismiss that action with prejudice.

15.4. Dismissal Of Second City Litigation: If the Commission approves the MCDP as specified herein, within fifteen days after the Commission files its return to the writ of mandate as described herein Ailanto shall dismiss the Second City Litigation, with prejudice.

15.5. Costs And Attorney's Fees: The Parties shall each bear their own attorneys' fees and costs incurred in the course of the Litigation, the First City Litigation and the Second City Litigation, and in the negotiation and implementation of this Settlement Agreement.

16. Release Of Claims: Except as provided herein, and so long as the Commission approves the MCDP as specified herein, Ailanto releases all existing claims, demands, liens, and/or causes of action against the Commission, its members, its staff and its counsel arising from the Commission's Approval and its proceedings pursuant to the writ of mandate specified herein.

Except as provided herein, and so long as the Commission modifies its Approval as specified herein, Ailanto releases all existing claims, demands, liens, and/or causes of action against the City, its members, its staff and its counsel arising from the City's proceedings relating to the Project and the approval of the modifications of the Approval specified in Paragraph 5.

So long as the Commission approves the MCDP as specified herein, the Commission releases all existing claims, demands, liens, and/or causes of action against Ailanto, its officers, its staff and its counsel relating to the Project and the approval of the modifications of the Approval specified in Paragraph 5.

So long as the Commission approves the MCDP as specified herein, the City releases all existing claims, demands, liens, and/or causes of action against Ailanto, its officers, its staff and its counsel relating to the Project and the approval of the MCDP specified in Paragraph 5. However, this waiver shall not apply to or in any way limit the City's exercise of its municipal and police powers, except as otherwise specified herein.

If the Commission, pursuant to the writ of mandate specified herein, votes not to modify its Approval, Ailanto waives any right to file a legal challenge against the Commission based on that vote, although Ailanto retains all rights to pursue the Litigation, the First City Litigation and the Second City Litigation against either the Commission or the City, as provided by this Settlement Agreement.

17. No Admission Of Liability: Each party understands and agrees that this is a compromise settlement of disputed claims, and that no provision hereof, or the Settlement Agreement itself, shall be deemed or construed as an admission of liability by any party with regard to any fact or question of law, and any such liability is expressly denied.

18. General:

18.1. Entire Agreement and Construction: This Settlement Agreement contains the entire agreement between the Parties, and each term hereof is contractual and not mere recitals. The Parties retain all rights specified by California law, to the extent not otherwise addressed in this Settlement Agreement. This Settlement Agreement has been drafted jointly by all the Parties, and thus any ambiguity in its terms shall not be construed automatically in favor of or against any particular Party.

18.2. Knowledge Of Parties And Advice Of Counsel: Each party has been advised by independent counsel concerning the Litigation, the First City Litigation, the Second City Litigation, and this Settlement Agreement, and each party freely and voluntarily signs this Settlement Agreement.

18.3. Counterparts And Facsimile: This Settlement Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

18.4. Authorization: The undersigned are authorized to execute this Settlement Agreement on behalf of their respective party and have read, understood and agree to all of the terms and conditions herein.

18.5. Binding Effect On Successors: This Settlement Agreement shall bind and inure to the benefit of each party, and to each party's agents, representatives, officers, directors, successors in interest, assigns and affiliated entities. It is the intent of

the parties that the rights and obligations of this Settlement Agreement will run with the land, and Ailanto will provide reasonable notice of the Settlement Agreement to any transferee or potential transferee of any interest in the property.

18.6. Covenant Of Cooperation: Each party shall cooperate to implement the terms of this Settlement Agreement and the stipulated judgment, once entered. Neither the Commission nor the City, including the individual members of its current City Council, will take any action directly or indirectly to delay or defeat Ailanto's rights thereunder. No actions, legislative or otherwise, including any form of moratorium, will be taken by any party that would limit or prevent full exercise of any other party's rights under this Settlement Agreement. Each party recognizes that it is bound by all legally implied covenants relating to the implementation of contracts and settlement agreements, as well as all legally implied covenants of cooperation relating thereto. Specifically, but without limitation, each party shall timely and fully execute and deliver to the other such further instruments and documents as may be necessary to carry out fully this Settlement Agreement, and will act expeditiously on any matter, submission, filing or application related to the Project, including review by the Commission of any actions required of Ailanto as a prerequisite to issuance of the MCDP. In addition, the City shall cooperate with Ailanto in supporting the Settlement Agreement in all future proceedings before the Commission relating to the Project.

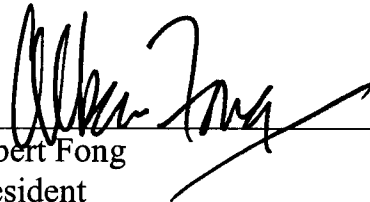
18.7. Obligations In The Event Of Further Litigation: Neither the City nor any of the members of its City Council shall initiate, either individually or in cooperation with any other party, litigation to challenge this Settlement Agreement or any action of any party to implement it. If litigation is filed by any person challenging any action of the Commission or the City pursuant to this Settlement Agreement, the City (and any members of its City Council if named in such litigation) may tender its defense of such litigation to Ailanto, and Ailanto shall thereafter defend the litigation without the City's participation. In such instance, Ailanto shall indemnify the City for any fees or costs that might be awarded against the City.

The Commission shall, in good faith, defend against any such litigation and shall cooperate with Ailanto in such defense. Specifically, by way of example, the Commission shall prepare any required administrative record on a priority and expedited basis, shall cooperate with Ailanto in seeking expedited briefing and hearing of any such action, and shall not settle any such action without Ailanto's consent, provided, however, that Ailanto reimburses the Commission for any litigation costs and attorney's fees that the court may require the Commission to pay. In addition, if Ailanto so requests, the Commission will arrange for a third-party vendor to prepare the administrative record on an expedited basis at Ailanto's expense, but the costs of any such record shall not be recoverable by Ailanto from the Commission.

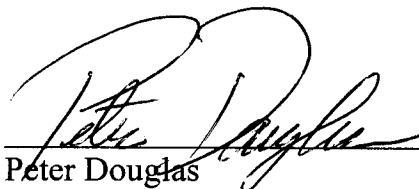
18.8. Effect Of Litigation Involving Commission Jurisdiction: It is the intention of the Parties that all Commission actions contemplated by this Settlement Agreement shall be of full legal force and effect and thus legally effective, and the Commission is confident that the Supreme Court will uphold its statutory permitting authority in the pending *Marine Forests* case. If, however, the outcome of that litigation affects the effectiveness of this Settlement Agreement, it shall remain fully enforceable against the City, and such litigation shall therefore not affect Ailanto's rights under this Settlement Agreement.

18.9. **Governing Law:** This Settlement Agreement is entered into, and shall be implemented and enforced, pursuant to the laws of the State of California.

DATED: _____, 2004.



Albert Fong
President
For Ailanto Properties, Inc.



Peter Douglas
Executive Director
For California Coastal Commission



Michael Ferreira
Mayor
For City of Half Moon Bay

WD 030304/1-1457701/1086691/v3

A

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ANNA C. SHIMKO (SBN 124611)
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San Francisco, California 94111
Telephone: (415) 434-1600

Attorneys for Petitioner and Plaintiff,
AILANTO PROPERTIES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

AILANTO PROPERTIES, INC.

Petitioner and Plaintiff,

v.

CALIFORNIA COASTAL COMMISSION, an
agency of the State of California; THE CITY OF
HALF MOON BAY; THE CITY COUNCIL OF
HALF MOON BAY; and DOES 1 through 10,

Respondents and Defendants.

Case No.: 416540

CONSENT JUDGMENT
(Code Civ. Proc. §664.6)

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN

1 The parties have settled this action, and a copy of the Settlement Agreement is attached
2 hereto as Exhibit A. Based on the Settlement Agreement,

3 IT IS HEREBY ADJUDGED AND DECREED that:

4 1. The Clerk of the Court shall issue to the California Coastal Commission the writ
5 of mandamus attached to this judgment as Exhibit B, to consider a modification of the
6 coastal development permit issued to Petitioner and Plaintiff, as specified in the Settlement
7 Agreement between the parties.

8 DATED: _____
9
10

11 _____
12 ROBERT D. FOILES
JUDGE OF THE SUPERIOR COURT

13 WD 030104/2-1457701/Y10/1134346/v1

14 HOWARD
15 RICE
NEMEROVSKI
CANADY
FALK
G RABKIN

B

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Attorneys for Petitioner and Plaintiff,
AILANTO PROPERTIES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

AILANTO PROPERTIES, INC.

Petitioner and Plaintiff,

v. .

CALIFORNIA COASTAL COMMISSION, an
agency of the State of California; THE CITY OF
HALF MOON BAY; THE CITY COUNCIL OF
HALF MOON BAY; and DOES 1 through 10,

Respondents and Defendants.

Case No.: 416540

PEREMPTORY WRIT OF
MANDATE

1 Based on the judgment entered in this action,

2 IT IS HEREBY ORDERED THAT:

3 1. The administrative proceeding involving the approval by the California Coastal
4 Commission of a coastal development permit to Petitioner and Plaintiff Ailanto Properties,
5 Inc., shall be and is hereby remanded to the California Coastal Commission for further
6 proceedings;

7 2. Within the time specified in Paragraph 4 of the Settlement Agreement, the
8 Commission shall hold a regularly noticed public hearing at which it will act pursuant to the
9 writ of mandate and consider the modification of its approval of the coastal development
10 permit to Petitioner and Plaintiff as specified in the Settlement Agreement between the
11 parties;

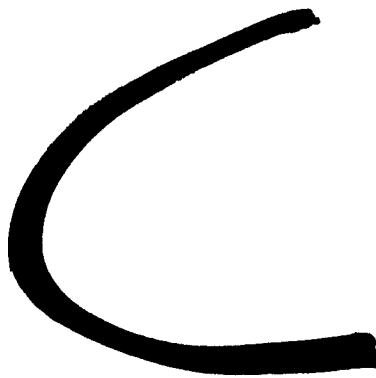
12 3. The jurisdiction of the California Coastal Commission during such proceedings is
13 limited to consideration of the modification of its approval of the coastal development
14 permit to Petitioner and Plaintiff as specified in the Settlement Agreement between the
15 parties, and does not extend to reconsideration or consideration anew of its approval;

16 4. Except as specified herein, this writ does not limit the discretion of the California
17 Coastal Commission during the remand ordered hereby;

18 5. Within ten days after its consideration of the matters specified herein, the
19 California Coastal Commission shall file with the Court and serve on the parties to the
20 Settlement Agreement a return to this writ of mandate. The return shall specify the actions
21 taken to comply with the writ, and shall inform the Court in detail of the actions taken with
22 respect thereto. Petitioner and Plaintiff may file objections, if any, to the return within
23 fifteen days after service.

24 DATED: _____

25
26
27 _____
CLERK OF THE COURT

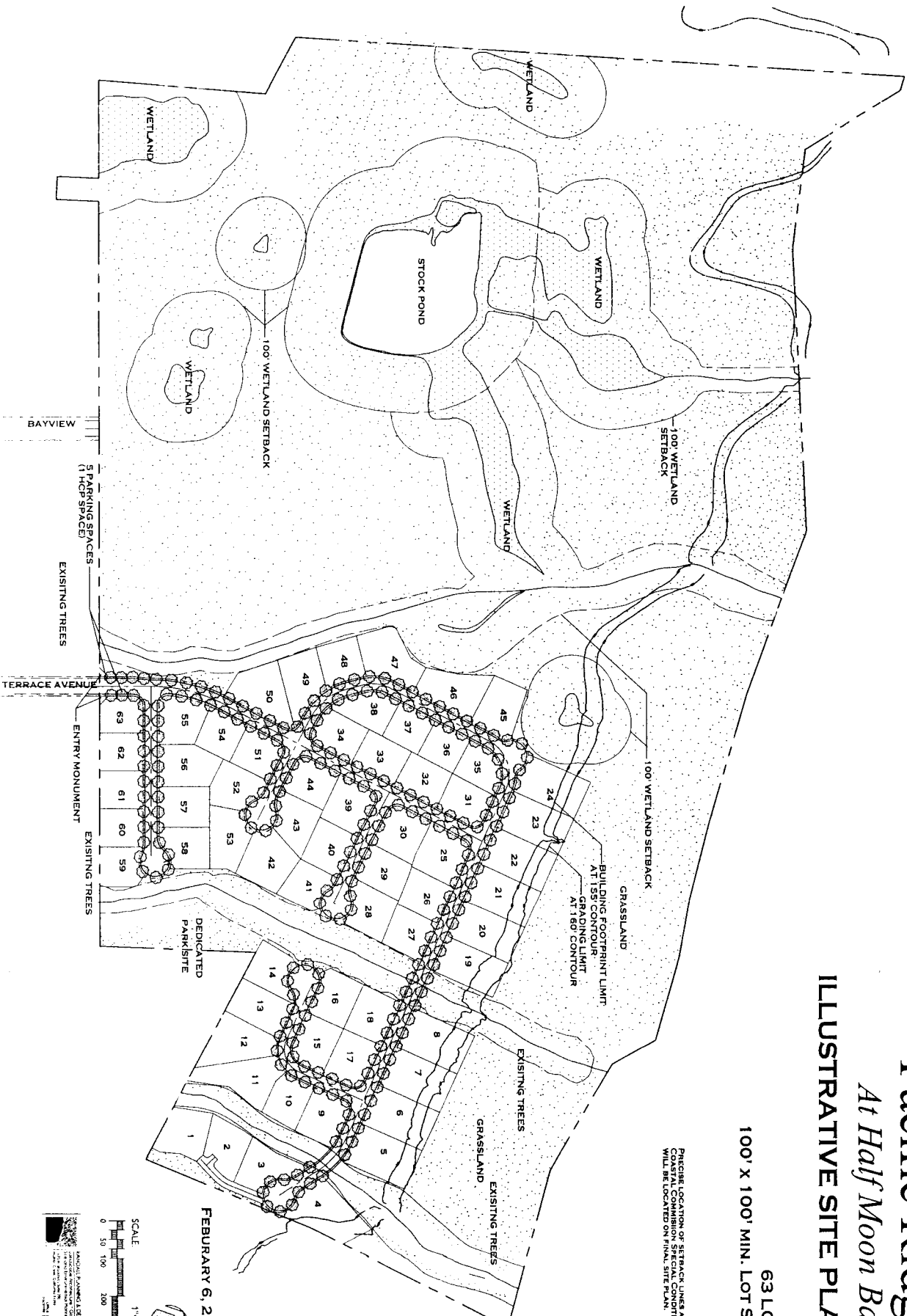


Pacific Ridge At Half Moon Bay

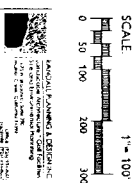
ILLUSTRATIVE SITE PLAN

63 LOTS
100' X 100' MIN. LOT SIZE

PRECISE LOCATION OF SETBACK LINES AS PER
LOCAL ORDINANCE SPECIFIC CONDITION 5A
WILL BE LOCATED ON FINAL SITE PLAN



FEBRUARY 6, 2004



ANALYST: JENNIFER L. BROWN, INC.
10000 S. RAYMOND AVE., SUITE 100
DANFORTH, ONTARIO M1S 4T7
Tel: (416) 291-1111
Fax: (416) 291-1112
www.jlbrown.com

D

EXHIBIT D
LIST OF INAPPLICABLE VESTING TENTATIVE MAP CONDITIONS

A. The Parties agree that the following conditions attached to the City's approval of the VTM on August 7, 1990 (Half Moon Bay City Council Resolution No. 38-90), are inconsistent with the terms and conditions of the Settlement Agreement including the modified Approval of the CDP specified therein. As such, the following conditions (or portions thereof as shown below in strike-through text) no longer apply to the Project.

1. Vesting Tentative Map Condition 11:

~~That fire flow and all other applicable Fire Code Regulations shall be to the satisfaction of the Fire District. That the applicant shall agree to participate in the formation of a special service zone to assist in funding the additional manpower required to service the project. As additional fire service zones are developed, the assessment may be adjusted as necessary to reflect the proportionate contribution of each area for fire protection services. Prior to the issuance of building permits, the applicant shall execute an agreement with the Fire District which shall provide for fully funding the first year's assessment at a date set forth in the agreement.~~

[Given the greatly reduced density of the Project, there is no need for the formation of a special service zone/fire assessment district. Further, the roads serving the subdivision will be of adequate dimensions with turn-arounds to accommodate emergency services vehicles, fire hydrants will be provided with adequate fire flow, and all Project homes will be equipped with sprinklers.]

2. Vesting Tentative Map Condition 21:

~~That subdivider shall dedicate land for park and recreation purposes pursuant to Chapter 17.16 of the Half Moon Bay Municipal Code. Any land to be dedicated for this purpose shall be shown and dedicated on the Final Map.~~

[VTM Condition 21 will be satisfied by Ailanto's compliance with Commission Special Conditions 3(A) and 3(H).]

3. Vesting Tentative Map Condition 22:

~~Unless previously addressed as a part of the Terrace Avenue Assessment District, the subdivider shall be subject to standard storm drainage improvement fees, which shall be collected prior to approval of the Final Map, in accordance with Chapter 17.08 of the Half Moon Bay Municipal Code.~~

[As of April 3, 1998, Ailanto paid in full all storm drainage improvement fees as part of the Terrace Avenue Assessment District. The total amount of fees paid was \$955,014.31.]

4. Vesting Tentative Map Condition 25:

A public utilities easement, having a minimum width of 4 feet, shall be provided on each side of all streets except ~~Foothill Blvd~~ the street serving lots 1-3 where the public utilities easement may be provided on one side of the street. The public utilities easements shall be outside the street right-of-way but shall be adjacent to and contiguous with the street right-of-way. ~~The public utility easements on Foothill Blvd., one on either side of the roadway, shall be within the right-of-way.~~

[The proposed amendments strike a reference to the Foothill Boulevard right-of-way, which would conflict with Paragraphs 5(E) and 7 of the Settlement Agreement and which the City has initiated proceedings to eliminate from its General Plan. The proposed amendments would also clarify that the street serving the flag lots 1-3 need only have a public utilities easement on one side of the road.]

5. Vesting Tentative Map Condition 35:

~~That no more than 100 dwelling units may be constructed prior to the connection of Foothill Boulevard to Highway 1. The Half Moon Bay Fire Protection District shall approve an all-weather emergency access road to the development prior to the issuance of any permits for the first 50 dwellings in the event that building permits are requested prior to any connection to Highway 1 being completed.~~

[The deletion is necessary as the condition refers to the Foothill Boulevard right-of-way, which would conflict with Paragraphs 5(E) and 7 of the Settlement Agreement and which the City has initiated proceedings to eliminate from its General Plan. An emergency access road is inconsistent with Commission Special Condition 6 which only allows for one stream crossing each of Streams 1, 2, and 3 to access the Project homes. Further, such a road is not required given: (1) the significantly reduced density of the Project, (2) the fact that adequate fire hydrants with necessary fire flow will be provided per VTM Conditions 11 and 20, (3) that the roads within the subdivision will be of adequate dimensions with turn-arounds to accommodate emergency services vehicles, and (4) that all Project homes will be equipped with sprinklers and have lighted addresses so as to be easily visible to approaching emergency vehicles.]

6. Vesting Tentative Map Condition 36:

~~That the subdivider will be subject to standard traffic mitigation fees, which shall be collected prior to approval of the Final Map, which can be used in the future for any signals or intersection improvements that need to be installed in the vicinity if cumulative impacts warrant these signals or improvements to the satisfaction of the Director of Public Works. Any previous financial commitment from the developer to the City pertaining to roadway improvements shall be credited toward the required fees.~~

[Ailanto's payment of the in lieu CTMC fee and funding of signalization and widening at the intersection of Highway 1 and Terrace Avenue per Paragraphs 5(D) and 5(E) of the Settlement Agreement satisfies in full the Project's traffic mitigation obligations.]

7. Vesting Tentative Map Condition 37:

~~That unless the subdivider can provide the City with proof of title or interest in that portion of the adjacent parcel (056-310-150—Cabrillo Unified School District) within 40.00 feet of the centerline of Foothill Blvd. prior to submitting a Final Map, then the subdivider shall submit an Amended Vesting Tentative Map with the Foothill Blvd. right-of-way wholly within the Dykstra Ranch Subdivision.~~

[The deletion is necessary as the condition refers to the Foothill Boulevard right-of-way, which would conflict with Paragraphs 5(E) and 7 of the Settlement Agreement and which the City has initiated proceedings to eliminate from its General Plan.]

8. Vesting Tentative Map Condition 38: the street names referenced in this condition will not apply to the modified Project. The design standards for the curbs, sidewalks, and streets specified therein shall otherwise remain in effect.

9. Vesting Tentative Map Condition 39:

~~That prior to the recordation of any Final Map for this development, the Planning Director shall review said map or maps to ensure that guest parking bays are provided in the right-of-way at a ratio of not less than one space for each unit. Said guest parking bays shall be located to provide close and convenient parking areas to support the adjacent residences.~~

[Due to the fewer homes and larger driveways, it is unnecessary to provide guest parking bays in the public right-of-way.]

B. The Parties further agree that the following sections of the Dykstra Ranch Planned Unit Development Plan (Chapter 18.16 of the Half Moon Bay Zoning Ordinance), referenced in Vesting Tentative Map Conditions 1, 13, 30, and 40, are inconsistent with the terms and conditions of the Settlement Agreement including the modified Approval of the CDP specified therein, and do not therefore apply to the Project: §§ 18.16.015, 18.16.035(C)(6) (provision authorizing increased rear yard setback area), 18.16.035(F), 18.16.035(G)(1) and (2), 18.16.040, 18.16.045, 18.16.050, 18.16.055, and 18.16.070(A), (B) (requirement for parking bays), (E), and (F).

[The above-referenced provisions of the Dykstra Ranch PUD Plan are inconsistent with the terms of the Settlement Agreement and/or the Commission's Special Conditions as follows:

- **Section 18.16.015 (Phasing of Development) is replaced by Paragraph 14 of the Settlement Agreement.**

- Ailanto will comply with the minimum rear yard setback of 20 feet set forth in Section 18.16.035(C)(6). The provision authorizing the Planning Commission to increase the rear yard setback for development abutting a required habitat buffer zone or other environmentally sensitive area shall not apply, however, since it is inconsistent with Commission Special Condition 6 and Paragraph 13 of the Settlement Agreement.
- Due to the larger homes to be authorized by the modified Approval of the CDP, 3-car garages as opposed to 2-car garages per Section 18.16.035(F) will be provided. Guest parking bays (referenced in §§18.16.035(F) and 18.16.070(B)) will be unnecessary given the larger driveways accompanying the 3-car garages which allow for off-street guest parking.
- The prohibition on perimeter fences and restrictions on privacy fencing (*see*, 18.16.035(G)(1) and (2)) is inconsistent with the requirement of Commission Special Conditions 2 and 5.A.7 for a perimeter fence separating the developed area from the open space area and is further impracticable given the lots sizes (*i.e.*, approximately 10,000 square feet).
- All of the recreational facilities to be provided in conjunction with the Project are outlined in Commission Special Condition 3. Thus, Section 18.16.040 does not apply.
- Sections 18.16.045 (Development Adjacent to Sensitive Habitat), 18.16.050 (Preservation of Streams, Wetlands Habitats, and Lake) and 18.16.055 (Preservation of the Pond) are inconsistent with Commission Special Conditions 1 (Revised Subdivision Plan), 2 (Open Space and Conservation Easement – Habitat Protection), 5 (Habitat Management Plan) and 6 (Riparian Corridor Protection).
- Section 18.16.070(A) and (E) reference the Foothill Boulevard right-of-way which would conflict with Paragraphs 5(E) and 7 of the Settlement Agreement and which the City has initiated proceedings to eliminate from its General Plan.
- The project will not include gated entrances. Therefore, the specifications contained in 18.16.070(F) regarding gated entrances are inapplicable.]

3

EXHIBIT E

DESIGN REVIEW STANDARDS

1. The City's Architectural Review Committee approved the design plans for the Project homes on August 5, 1998 (the "Approved Design Plans"). The Approved Design Plans were submitted to the California Coastal Commission and were included in the Commission's Approval of the CDP, which was for both the Project homes and the subdivision.

2. Any modifications to the appearance of the Project homes as shown on the Approved Design Plans (other than modifications which are determined by the Planning Director to be in substantial compliance with these Plans), shall be reviewed pursuant to the City's Architectural Review and Site and Design Approval process. The Project homes shall have an appearance consistent with the standards in the applicable Planned Unit District (PUD) zoning and with the following standards which were used by the City's Architectural Review Committee in reviewing the Approved Design Plans:

- Massing – the massing should be simple, following the shape of the enclosed rooms within and utilizing moderate roof pitches. A farmhouse vernacular is encouraged.
- Roofs – materials such as highly contoured composite shingles and flat concrete tile roofs are desirable. Barrel vault tile, metal roofing, and built-up or modified bitumen, flat roofing shall not be utilized.
- Porches – porches are highly recommended and encouraged to be sized and configured so as to accommodate chair or bench seating for two or more people.
- Windows – windows and window trim shall be consistent on all four sides.
- Details – detailing should be kept simple and devoid of nonessential elements in keeping with a coastal farmhouse character.
- Materials – materials such as siding, shingles, stone and brick should be used. Stucco should not be used for a large expanse of area.
- Colors – natural, earth-tone colors that blend with the landscape are encouraged.

3. The Parties have agreed that the size of some of the Project homes will be larger than those depicted on the Approved Design Plans. The larger-sized Project homes will be reviewed pursuant to the process set forth herein to ensure that they comply with the applicable zoning and the standards set forth in Paragraph 2.

4. Any evaluation by the City's Architectural Review Committee of modifications to the appearance of the Project homes as shown on the Approved Design Plans, as set forth herein, shall not constitute a discretionary permit such as a use permit or a variance (Half Moon Bay Municipal Code § 18.21.020) and shall be appealable pursuant to Half Moon Bay Municipal Code § 18.21.040.

Pacific Ridge At Half Moon Bay

SUBDIVISION LOT MAP

TOTAL LOT COUNT: 134 LOTS
& 1 OPEN SPACE/ CONSERVATION
PARCEL

SCALE: 1"=100'-0"

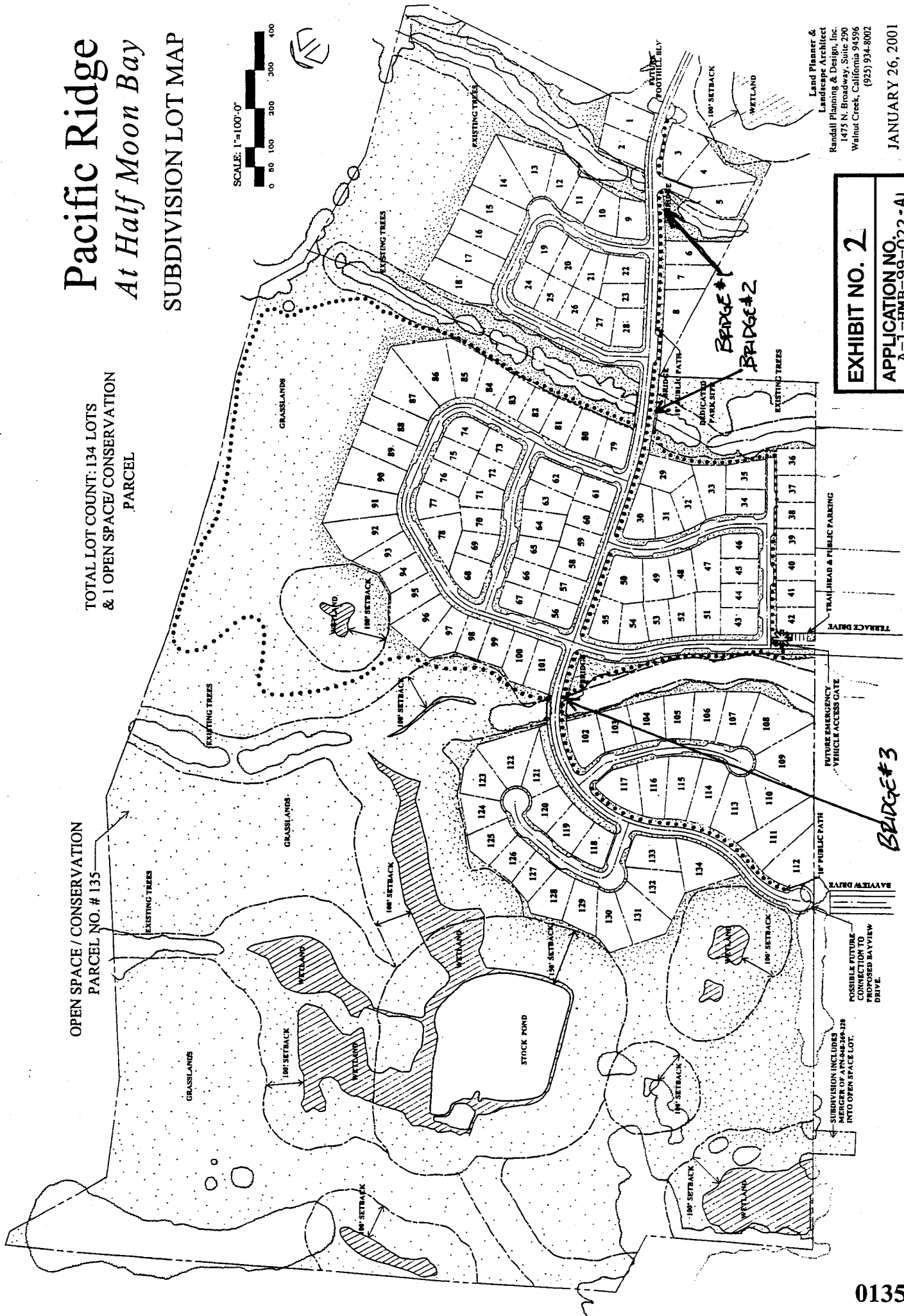


EXHIBIT NO. 2
APPLICATION NO. A-1-HMB-99-022-A1
Site plan with reconfigured lots (as of 1/26/01)

Land Planner &
Landscape Architect
Randall Planning & Design, Inc.
1472 N. Broadway, Suite 290
Walnut Creek, California 94596
(925) 934-8002

JANUARY 26, 2001

013570

**PACIFIC
RIDGE AT
HALF
MOON BAY**
HALF MOON BAY, CA

ALANTO PROPERTIES, INC.
1801 HARRISON STREET
DANFORTH, CA 94612
TEL: (415) 435-1000 FAX: (415) 435-1001

SWA
SOUTHWESTERN
WATERWAYS
ASSOCIATES
2200 S. 10TH STREET
SAN ANTONIO, TX 78204
TEL: (214) 521-1000 FAX: (214) 521-1001

CONSULTING
ENVIRONMENTAL
ENGINEERING
ARCHITECTURE
PLANNING
LANDSCAPE ARCHITECTURE
P.O. BOX 1000
SAN ANTONIO, TX 78204
TEL: (214) 521-1000 FAX: (214) 521-1001

ED
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DESIGN
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DANFORTH, CA 94612
TEL: (415) 435-1000 FAX: (415) 435-1001

LSA
LANDSCAPE
ARCHITECTURE
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DANFORTH, CA 94612
TEL: (415) 435-1000 FAX: (415) 435-1001

APPLICANT/PROJECT OWNER
ALANTO PROPERTIES, INC.
1801 HARRISON STREET
DANFORTH, CA 94612
TEL: (415) 435-1000 FAX: (415) 435-1001

KEY PLAN

OWNER
ALANTO PROPERTIES, INC.
1801 HARRISON STREET
DANFORTH, CA 94612
TEL: (415) 435-1000 FAX: (415) 435-1001

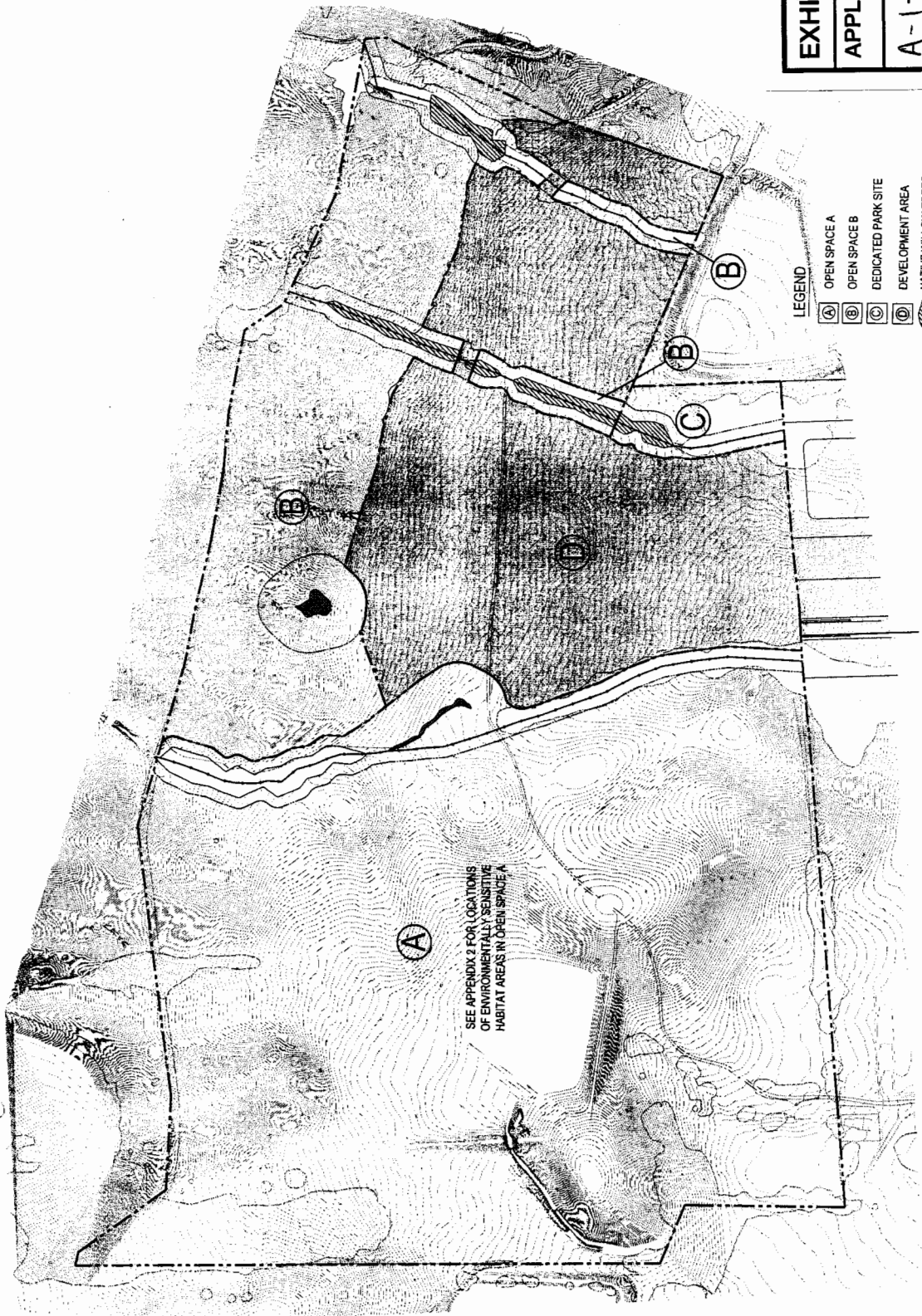


EXHIBIT NO. 3

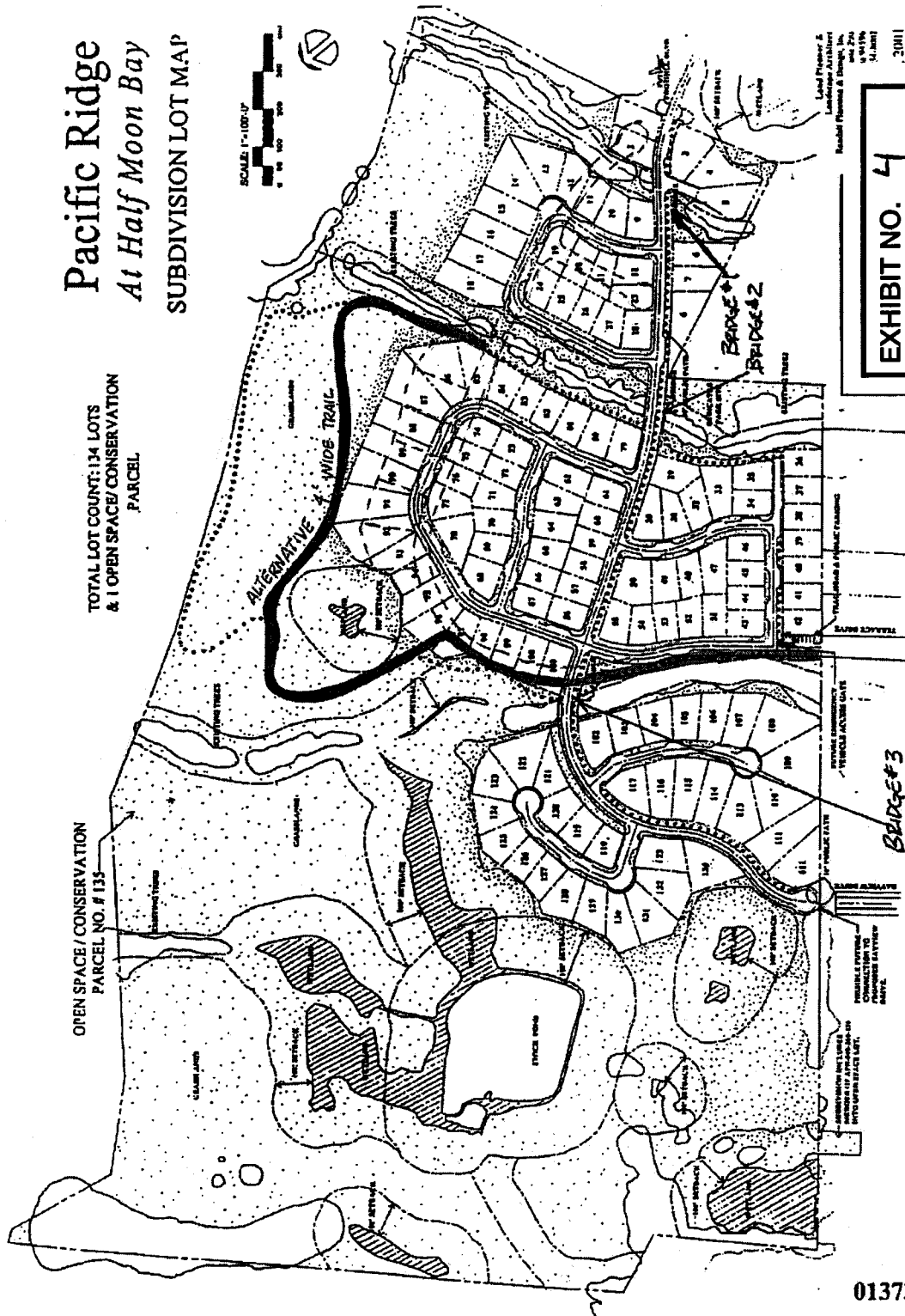
APPLICATION NO.

A-1-HMB-79-022

A1

**TOTAL LOT COUNT: 134 LOTS
& 1 OPEN SPACE/CONSERVATION
PARCEL**

OPEN SPACE / CONSERVATION
PARCEL NO. # 135



013732

EXHIBIT NO. 4

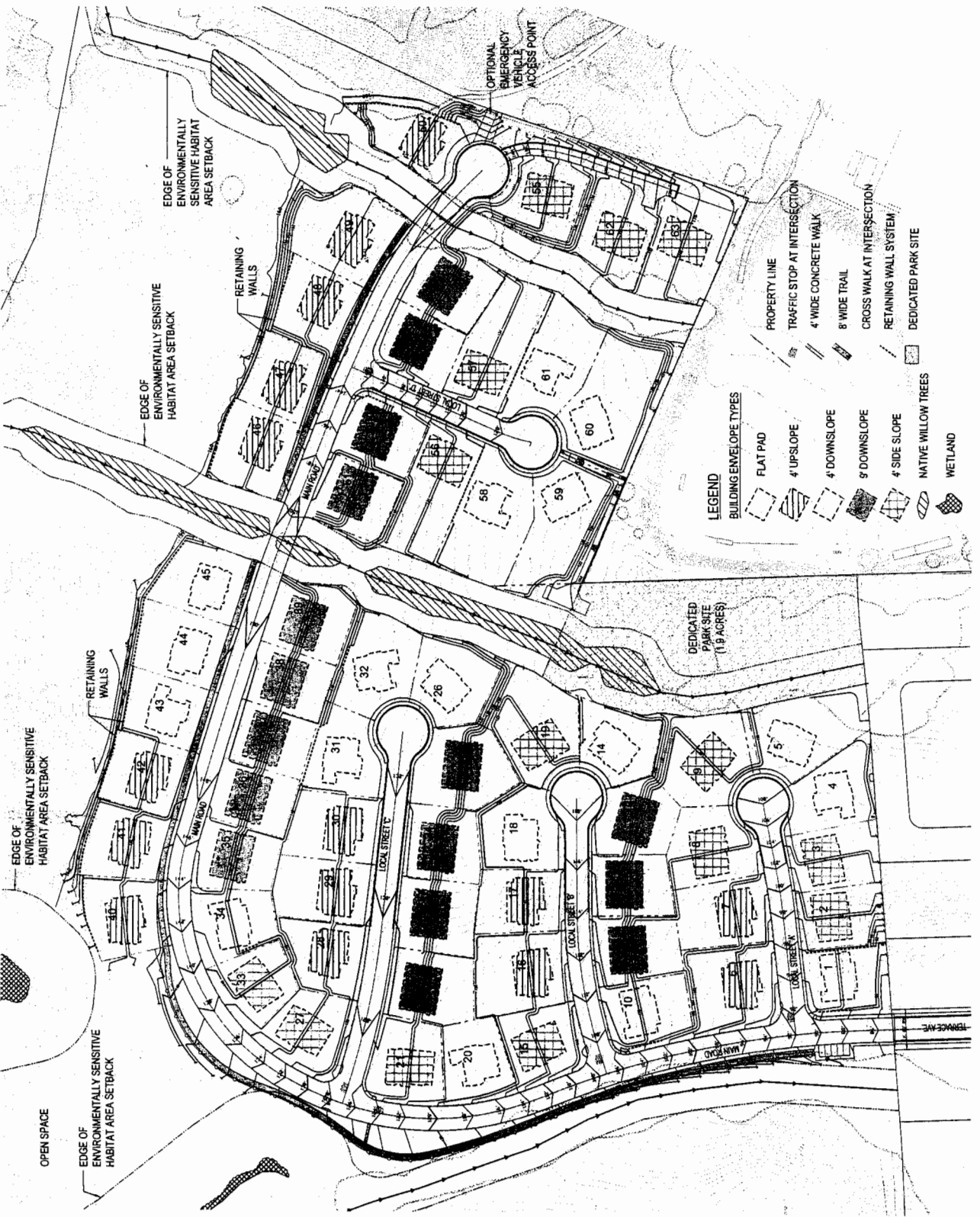
APPLICATION NO.

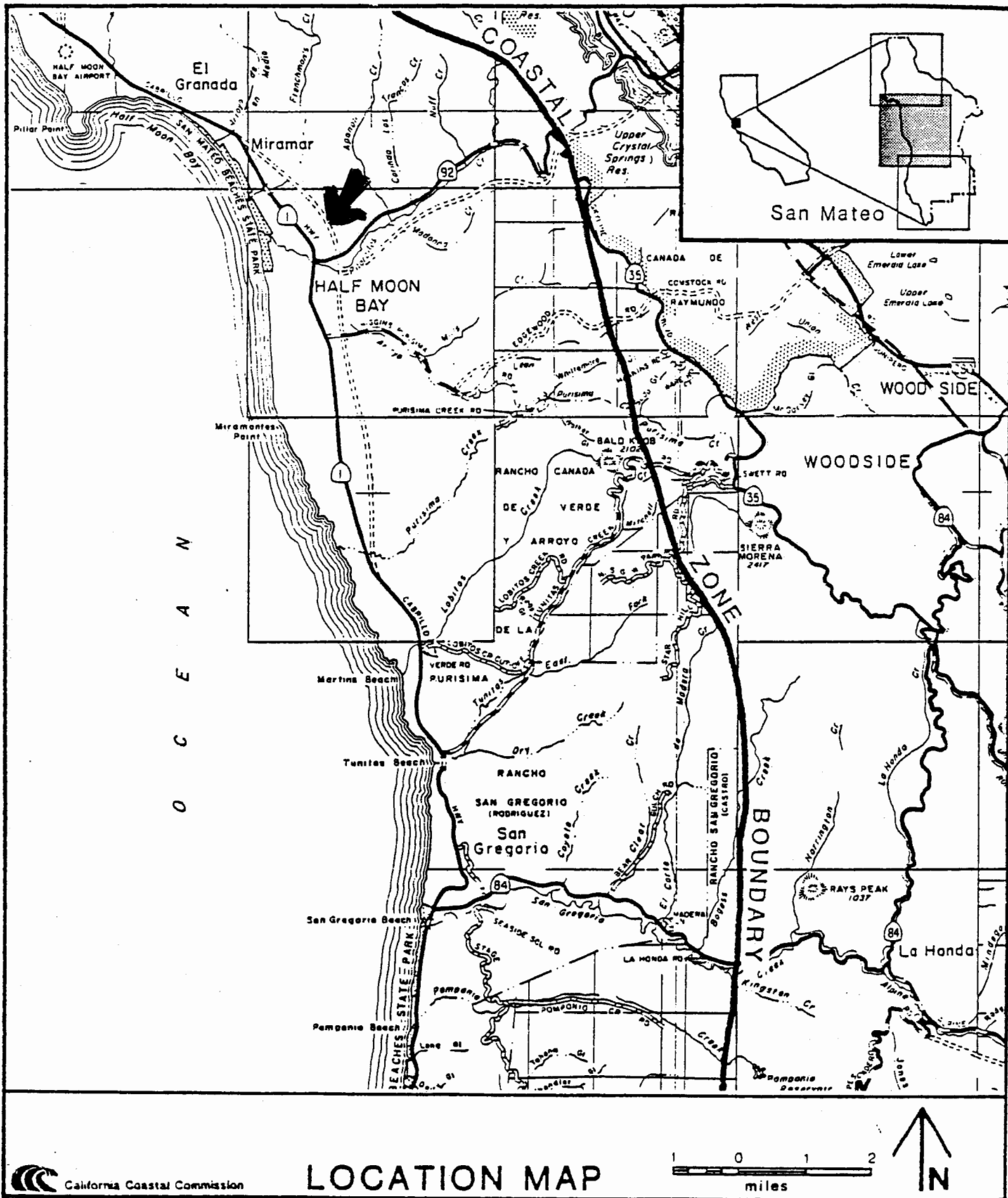
A-1-HMB-99-022-A1

ALTERNATIVE TRAIL LOCATION

EXHIBIT NO. 5
APPLICATION NO.
A-1-HMB-99-022
A1

PACIFIC RIDGE AT HALF MOON BAY 1801 PACIFIC RIDGE DRIVE DUBLIN, CA 94568 (925) 835-1000	ALANTO PROPERTIES, INC. 1801 PACIFIC RIDGE DRIVE DUBLIN, CA 94568 (925) 835-1000	515 CONSULTING 515 CONSULTING 10000 RAVEN HILL DRIVE SUITE 100 DUBLIN, CA 94568 (925) 835-1000	LSA LSA GROUP, INC. 10000 RAVEN HILL DRIVE SUITE 100 DUBLIN, CA 94568 (925) 835-1000	APPLICANT/DEVELOPER PACIFIC RIDGE AT HALF MOON BAY 1801 PACIFIC RIDGE DRIVE DUBLIN, CA 94568 (925) 835-1000	OWNER ALANTO PROPERTIES, INC. 1801 PACIFIC RIDGE DRIVE DUBLIN, CA 94568 (925) 835-1000	DESIGNER 515 CONSULTING 10000 RAVEN HILL DRIVE SUITE 100 DUBLIN, CA 94568 (925) 835-1000	DATE 11/11/99	SCALE 1" = 40'	PROJECT PACIFIC RIDGE AT HALF MOON BAY	CONCEPTUAL GRADING PLAN 11/11/99	PROJECT NUMBER L3
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County of San Mateo

013555

Appeal No. A-1-HMB-99-022-A1
EXHIBIT 6

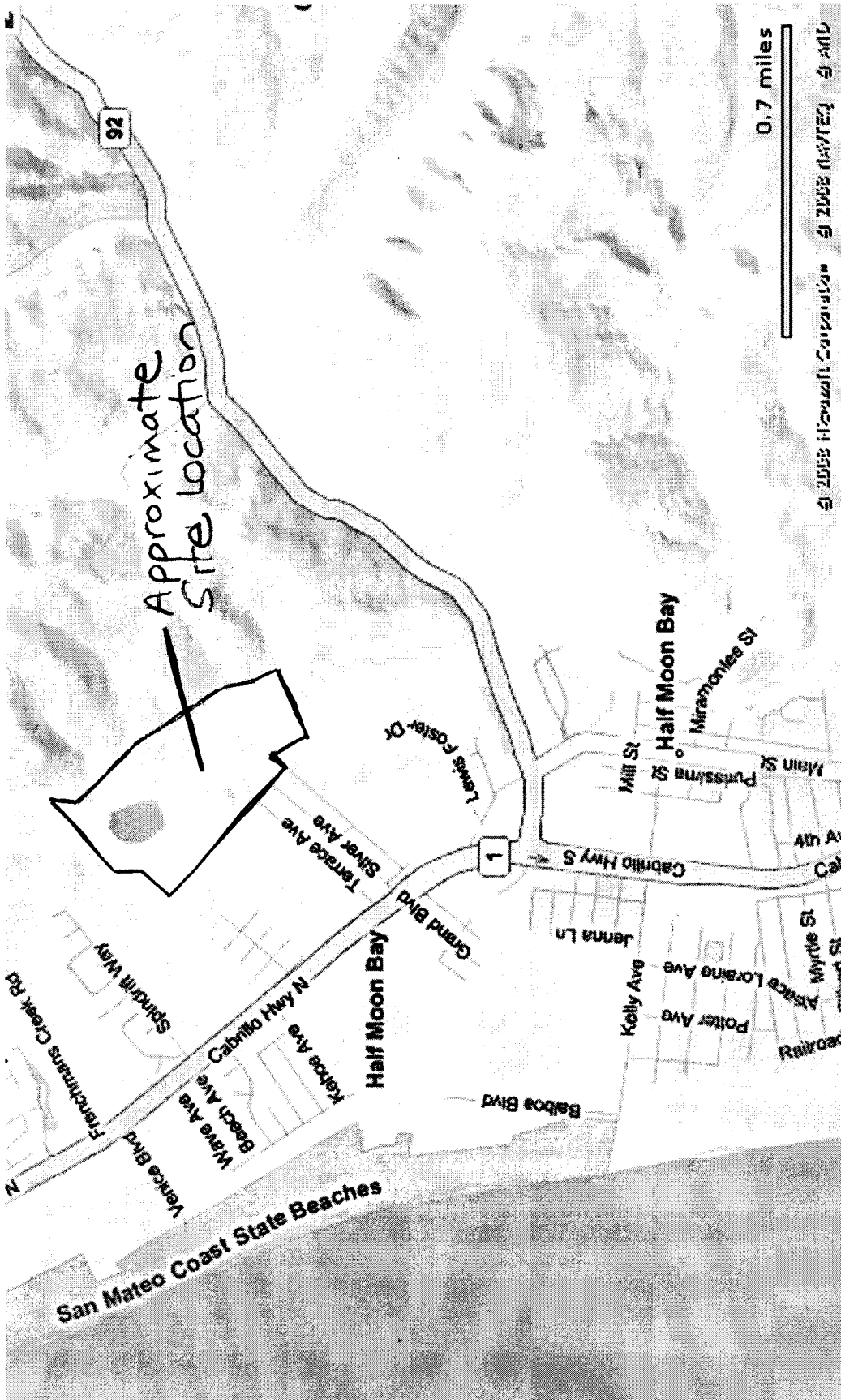


EXHIBIT NO. 7
APPLICATION NO.
A-1-HMB-99-022-A1

Prime Agricultural Soils East of Highway 1 Vicinity of Pacific Ridge Subdivision



* Prime agricultural soils are also found west of Highway 1 and north of Frenchman's Creek.

- NOTE -
The information depicted on this map is subject to revision. Locations and scale approximate. For illustrative purposes only.

Data Source: Map 2 Pacific Ridge at Half Moon Bay Existing Conditions and Required Buffer Zones. LSA
Basemap Source: Soil Survey, San Mateo California. USDA, SCS National Cartography and GIS Center, Fort Worth, TX. 1993.

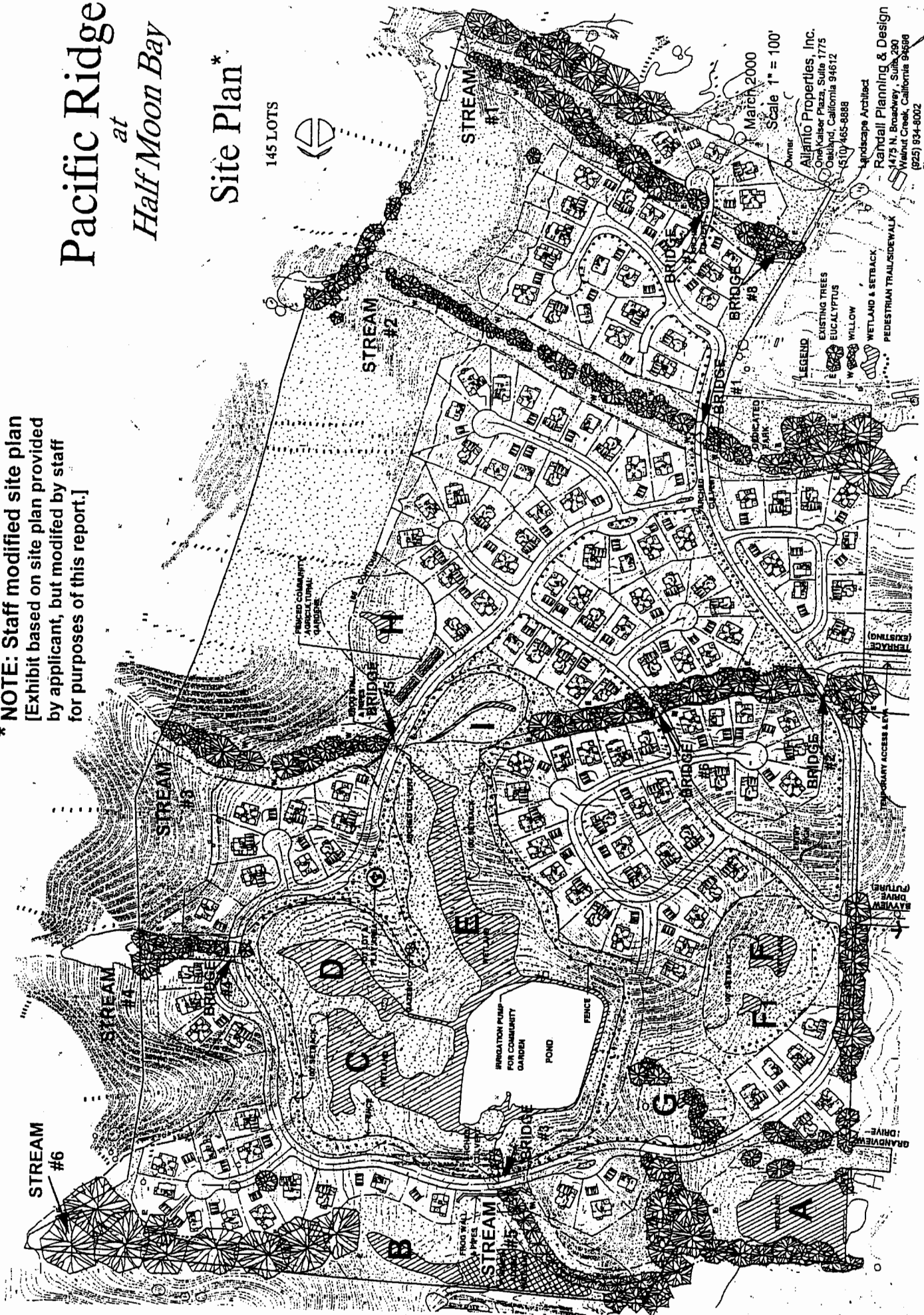
Pacific Ridge at Half Moon Bay

Site Plan*

145 LOTS



* NOTE: Staff modified site plan
[Exhibit based on site plan provided
by applicant, but modified by staff
for purposes of this report.]



Existing Intersection Operations						
Intersection		Control	AM Peak Hour		PM Peak Hour	
			LOS	Delay*	LOS	Delay*
1	SR-1 & Terrace Ave.	Minor Stop	F	499	F	330
2	SR-1 & Main St. (north)	Signal	C	33	C	26
3	Terrace Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
4	Silver Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
5	Highland Ave. & Golden Gate Ave.	All-Stop	A	7	A	7

Existing Plus Project Conditions Intersection Operations						
Intersection		Control	AM Peak Hour		PM Peak Hour	
			LOS	Delay*	LOS	Delay*
1	SR-1 & Terrace Ave.	Signal	B	15	B	12
2	SR-1 & Main St. (north)	Signal	C	33	C	26
3	Terrace Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
4	Silver Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
5	Highland Ave. & Golden Gate Ave.	All-Stop	A	7	A	7

Cumulative No Project Intersection Operations						
Intersection		Control	AM Peak Hour		PM Peak Hour	
			LOS	Delay*	LOS	Delay*
1	SR-1 & Terrace Ave.	Minor Stop	F	Overflow	F	Overflow
2	SR-1 & Main St. (north)	Signal	F	95	D	38
3	Terrace Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
4	Silver Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
5	Highland Ave. & Golden Gate Ave.	All-Stop	A	7	A	7

Cumulative Plus Project Conditions Intersection Operations						
Intersection		Control	AM Peak Hour		PM Peak Hour	
			LOS	Delay*	LOS	Delay*
1	SR-1 & Terrace Ave.	Signal	C	20	B	17
2	SR-1 & Main St. (north)	Signal	F	95	D	38
3	Terrace Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
4	Silver Ave. & Golden Gate Ave.	All-Stop	A	7	A	7
5	Highland Ave. & Golden Gate Ave.	All-Stop	A	7	A	7

* Delay = Average delay for all vehicles passing through intersection, in seconds

Source: T.Y. Lin International, *Traffic Analysis for Terrace Avenue Signal Installation* (November 2004).

TABLE 3
LEVELS OF SERVICE

Intersection	Control ¹	Peak Hour	Existing		Opening Year		Opening Year With Project		Year 2020 ⁴		Year 2020 With Project	
			Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
State Route 92 / Route 1	Signal	AM	50	D	58	E	53	D	29	C	30	C
		PM	43	D	68	E	37	D	---	---	---	---
Main Street / Route 1	Signal	AM	33	C	39	D	41	D	23	C	23	C
		PM	61	E	>80	F	28	C	---	---	---	---
Terrace Avenue / Route 1	SSS ² / Signal ³	AM	>50 (WB)	F	>50 (WB)	F	17	B	>50 (WB)	F	16	B
		PM	>50 (WB)	F	>50 (WB)	F	14	B	---	---	---	---
Ruisseau Francals Avenue / Route 1	Signal	AM	13	B	13	B	14	B	>80	F	>80	F
		PM	16	B	15	B	26	C	---	---	---	---

Notes:

1. SSS = Side Street Stop Controlled Intersection; Signal = Signalized Intersection
2. For side-street stops, worst approach delay presented
3. With Project scenario, intersection will operate with a signal
4. Under Cumulative and Cumulative With Project PM peak hour conditions demand far exceeds the capacity throughout the system. Therefore, LOS results are not reported for Cumulative conditions
5. --- Indicates that LOS cannot be calculated

Source: Fehr & Peers, July 2005

EXHIBIT NO. 11

APPLICATION NO.

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TABLE 4
TRAVEL TIME (SECONDS)

Direction	Location	Existing		Opening Year		Opening Year With Project		Year 2020 ¹		Year 2020 With Project	
		AM	PM	AM	PM	AM	PM	AM	PM	AM	PM
Northbound	SR 92 to Main St	47.2	75.0	48.9	98.6	49.0	34.3	29.0	---	27.7	---
	Main St to Terrace Ave	30.1	97.1	30.7	103.8	33.2	34.9	36.5	---	37.9	---
	Terrace Ave to Ruisseau Francals Ave	102.6	111.4	102.9	110.6	105.2	138.8	105.8	---	86.9	---
	Total (minutes):	3:00	4:44	3:03	5:13	3:07	3:28	2:51	---	2:33	---
Southbound	Ruisseau Francals Ave to Terrace Ave	106.1	100.1	106.2	108.8	79.6	106.1	108.8	---	104.3	---
	Terrace Ave to Main St	38.2	40.0	41.1	41.2	42.0	38.8	37.8	---	35.5	---
	Main St to SR 92	19.1	25.9	19.0	26.0	19.4	30.7	24.0	---	25.1	---
	Total (minutes):	2:43	2:46	2:46	2:56	2:21	2:56	2:51	---	2:45	---

Notes:

- Under Cumulative and Cumulative With Project PM peak hour conditions demand far exceeds the capacity throughout the system. Therefore, travel time results are not reported for Cumulative conditions
- Indicates that Travel Time cannot be calculated

Source: Fehr & Peers, July 2005

EXHIBIT NO 11

APPLICATION NO.

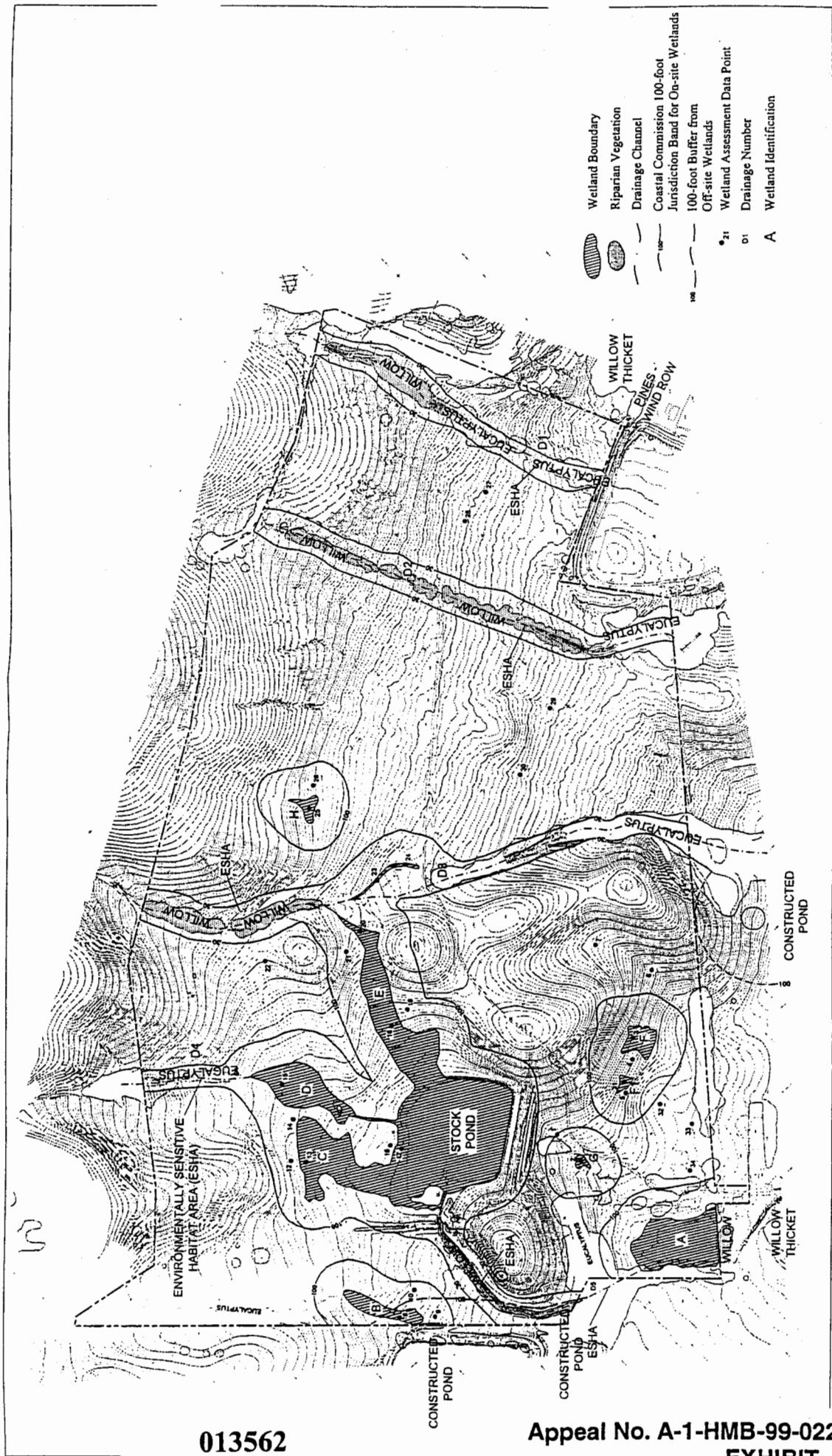
A-1-TMB-99-022-A1

Page 2 of 3

TABLE 5 PERCENT SERVED						
Intersection	Peak Hour	Existing	Opening Year	Opening Year With Project	Year 2020	Year 2020 With Project
State Route 92 / Route 1	AM	100	98	99	97	98
	PM	99	97	100	78	85
Main Street / Route 1	AM	100	98	99	95	96
	PM	96	94	100	80	88
Terrace Avenue / Route 1	AM	100	99	100	94	96
	PM	97	95	100	80	87
Ruisseau Francals Avenue / Route 1	AM	100	99	100	96	96
	PM	97	96	100	82	87
System-Wide	AM	100	99	100	96	97
	PM	97	96	100	80	87

Source: Fehr & Peers, July 2005

EXHIBIT NO. 11
APPLICATION NO.
A-1-HMB-99.022-A1
Page 3 of 3



Map 2 Pacific Ridge at Half Moon Bay
Existing Conditions and Required Buffer Zones

013562

Appeal No. A-1-HMB-99-022-AI
EXHIBIT

LSA
04-25-00 (A) (R) (E) (C) (T) (A) (B) (J) (W) (G)

EXHIBIT NO. 13

APPLICATION NO.

A-1-HMB-99-02-A1

**PACIFIC
RIDGE AT
HALF
MOON BAY**
HALF MOON BAY, CA

ALANITO PROPERTIES, INC.

1901 HARBORSHORE DRIVE
OAKLAND, CA 94612
TEL: 415.764.1000 FAX: 415.764.1001

5.09 AC

PROJECT:
PACIFIC RIDGE AT HALF MOON BAY
22000 S. 10TH STREET
SUNNYVALE, CA 94086
24 HOURS A DAY
24 HOURS A DAY
WWW.PACIFICRIDGE.COM

CONSULTING



FPA ASSOCIATES, INC.
10000 S. 10TH STREET
SUNNYVALE, CA 94086
TEL: 415.764.1000 FAX: 415.764.1001

LSA
LANDSCAPE ARCHITECTS, INC.

APPLIANCE DEVELOPERS
10000 S. 10TH STREET
SUNNYVALE, CA 94086
TEL: 415.764.1000 FAX: 415.764.1001

Key Plan

OWNER
ALANITO PROPERTIES, INC.
1901 HARBORSHORE DRIVE
OAKLAND, CA 94612
TEL: 415.764.1000

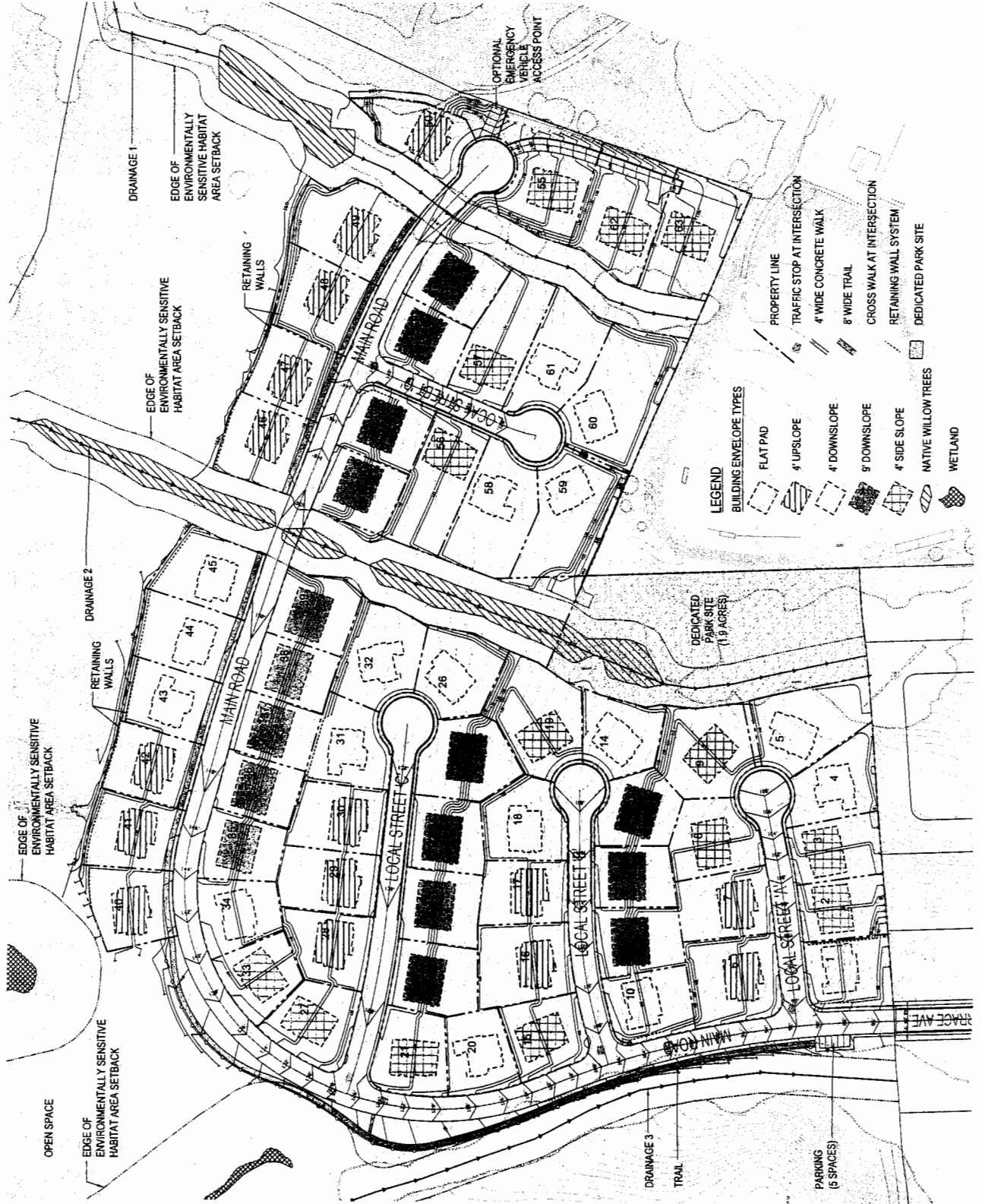
Scale 1" = 40'-0"

DATE: 08/11/09
PROJECT: PACIFIC RIDGE AT HALF MOON BAY
DRAWING NO.: A-1-HMB-99-02-A1

Drawing Title
DEVELOPMENT
PLAN

Drawing Number

L.2



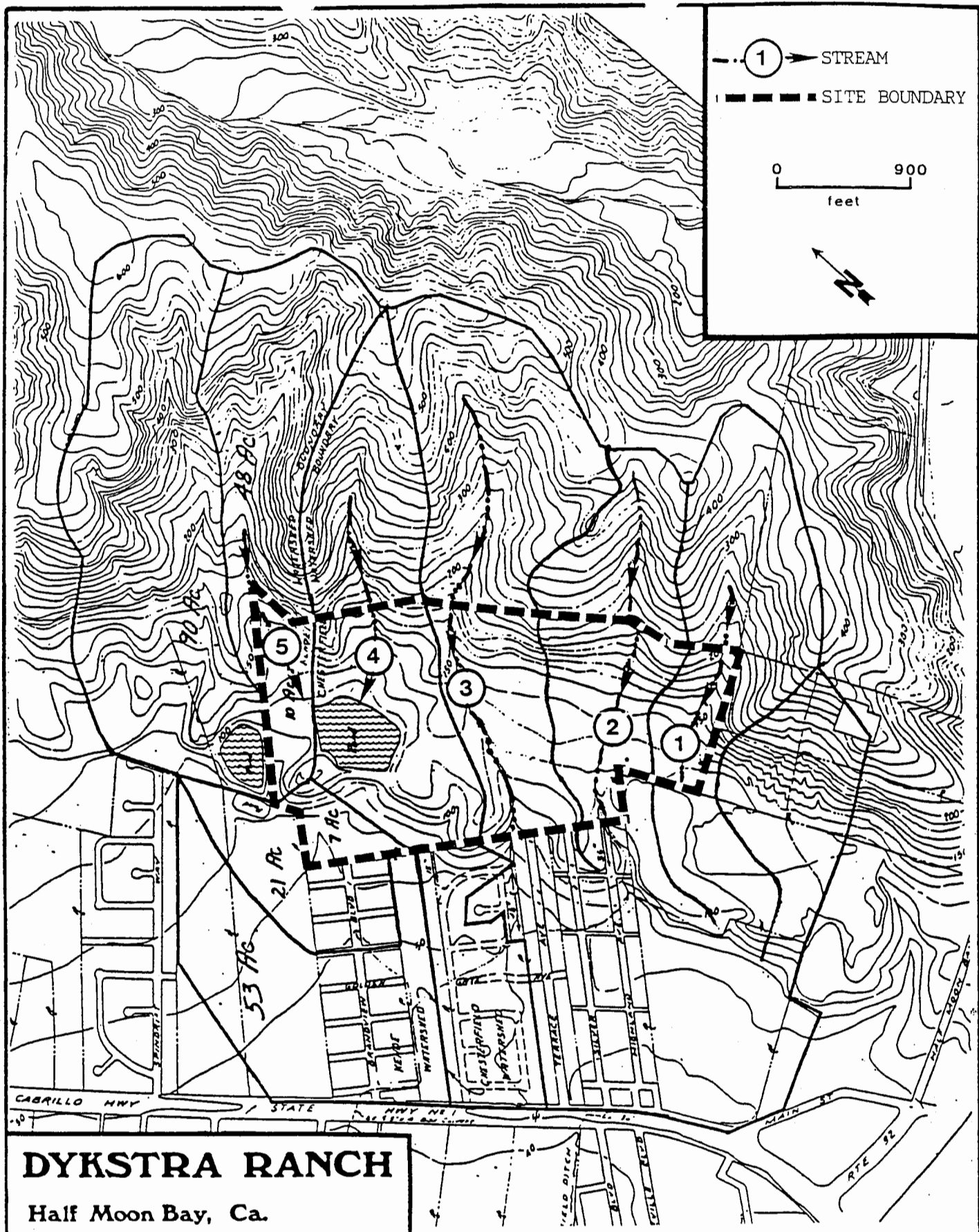


Figure 4.3-2 KEHOE-CHESTERFIELD WATERSHEDS



013565

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for the approval with conditions of Coastal Development Permit No. A-1-HMB-99-022 on the ground that the findings support the Commission's decision made on February 16, 2001, and accurately reflect the reasons for it.

1.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

1.2 Special Conditions

1. Revised Subdivision Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a revised project site plan eliminating Lot Numbers 124-131 as shown on the Pacific Ridge at Half Moon Bay Site Plan dated January 26, 2001, attached as Exhibit 14. No development, including grading, shall be allowed on any slopes that currently drain to the pond or other wetlands north of Stream 3 as shown on the January 26, 2001 site plan.
- B. The applicant shall undertake development in accordance with the revised site plan approved by the Executive Director. No proposed changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Open Space and Conservation Easement – Habitat Protection

- A. No development, as defined in Coastal Act Section 30106, nor any agriculture or grazing activities shall occur in the environmentally sensitive habitat area north of Stream 3 as shown on Exhibit 14 except for: (1) construction of the fence that is sited and designed in accordance with Special Condition 5.A.7 below, and (2) other development necessary for

habitat enhancement, if approved by the Commission as an amendment to this coastal development permit.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space and conservation easement for the purpose of resource protection and habitat conservation. Such easement shall include legal descriptions of both the applicant's entire property and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition.
- C.** The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Public Access and Park Dedication

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and consistent with the terms of the proposed project description, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate in fee to the City of Half Moon Bay or to another public agency approved by the Executive Director the 1.9-acre park site, as generally depicted on the January 26, 2001 site plan attached as Exhibit 14. The recorded document shall include legal descriptions of both the applicant's entire property and the fee dedication area. The recorded document shall also reflect that development in the fee dedication area is restricted to public park and recreation purposes.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and consistent with the terms of the proposed project description, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate a public access easement to the City of Half Moon Bay or another public agency or private association approved by the Executive Director over the entirety of the trails, paths and associated public parking area as generally depicted on the January 26, 2001 site plan attached as Exhibit 14, except that the section of trail on the hillside east of the developed area shall be re-sited closer to the developed area to leave a larger area undisturbed. The trails and paths shall be 10 feet wide and the parking area shall accommodate 5 cars. The recorded document shall include legal descriptions of both the applicant's entire property and the easement area. The recorded document shall also reflect that development in the easement area is restricted to public access purposes as set forth in this condition.
- C.** The offers identified in Subsections A and B shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interests being conveyed. The offers shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. Open Space Deed Restriction – Scenic View Protection

- A. No grading, building footprints, construction or landscaping shall occur on the slopes above the 160-foot contour as shown in Exhibit 15.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development on the slopes above the 160-foot contour except for the area within the habitat conservation easement area described in Special Condition 2. The deed restriction shall include legal descriptions of both the applicant's entire property and the easement area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. Habitat Management Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a Habitat Management Plan that shall provide the following specific measures designed to conserve enhance and manage the environmentally sensitive habitat area on the northern portion of the project site for the benefit of the San Francisco garter snake, the California red-legged frog, and other sensitive species that use the area, including raptors. The applicant shall be responsible for assuring the long-term implementation of the approved Habitat Management Plan.

1. Pond Hydrology

Maintain the diversion berm in central Drainage 3 to continue to direct intermittent water flow from Upper Drainage 3 toward the pond.

2. Grass Management

Manage grassland areas adjacent to, and upslope from, the pond and delineated wetlands to favor (re)establishment of native grass species and reduce or control invasive non-native species.

3. Habitat Enhancement

Manage lands to enhance and protect populations of target species of special-status biota, riparian areas, wetlands, and other site resources.

4. Fuel Management

Reduce or eliminate dangerous accumulations of wildfire fuels.

5. Open Space Management

Develop techniques and strategies for the active management of the open space areas using such tools and practices as grazing, prescribed burning, mechanical control of fuels, habitat (vegetation) restoration and establishment of native plants, erosion prevention and sediment control, and removal of exotic species.

6. Raptors

Prior to commencement of grading or any other construction-related activity, a qualified biologist shall conduct a survey of nesting raptors at the project site. If white-tailed kite, Cooper's hawk or other tree-nesting raptors are found, the tree(s) shall be protected from disturbance during the nesting season. A temporary fence shall be placed 200 feet from the drip line of such trees and all grading or construction activities, including storage of materials or equipment, shall be excluded from the fenced area. If ground-nesting northern barriers are found, a temporary nest shall be placed around the nest at a radius of 300 feet and all construction shall be excluded from the fenced area. During the nesting season, the biologist shall monitor the grading or construction site on a biweekly (14 day) period. The protection measures shall remain in effect until the biologist has verified that adults have abandoned the nest or the young have left the nest or nest tree.

Prior to commencement of grading or any other construction-related activity during the yellowthroat-nesting season, a qualified biologist shall conduct a survey of the project site for nesting salt marsh common yellowthroats. A 100-foot fenced temporary buffer shall be established around any active nest to exclude any construction activity, or any storage of materials or equipment from such buffer. The fence shall remain in place until August 1 of the year or until the biologist verifies that the nest is no longer active.

In the event that adult raptors or yellowthroats abandon a nest during grading or construction, the biologist shall within 48 hours prepare and submit a report to the executive director stating the observation and the biologist's professional opinion of the reasons therefor.

At the end of a grading or construction phase, or the end of each year's nesting season during project construction, whichever comes first, the biologist shall prepare and submit to the executive director a monitoring report on the effectiveness of this condition to protect any identified raptor or yellowthroat nests at the project site.

7. Perimeter Fence

The Habitat Management Plan shall provide for the construction of a four- to five-foot high fence with a solid base to separate the developed areas, including trails, from the adjacent open space and environmentally sensitive habitat areas.

- B. For a period of five years following issuance of the coastal development permit on the anniversary date of the Commission's action to approve the permit, the applicant (or his consulting expert) shall perform and report to the Commission on a monitoring study, consistent with applicable wildlife agency protocols, of the utilization of the dedicated habitat conservation area by the sensitive species referenced in Special Condition 5.A. Commencing with the eighth year following issuance of the coastal development permit and every third year thereafter, the "Pacific Ridge at Half Moon Bay" subdivision homeowners association, or its consulting expert, shall perform and report to the Commission on a monitoring study, consistent with applicable wildlife agency protocols of the utilization of the dedicated habitat conservation area by the sensitive species referenced in Special Condition 5.A.
- C. The applicant, or his successors or assigns, during the term of the development and home sales program of the subdivision, and the homeowners association following completion

of subdivision home sales shall be responsible for the implementation, including, but limited to, any corrective actions of adverse conditions identified by the monitoring program pursuant to Special Condition 5.B.

- D. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review of, and approval by the Executive Director, a report by a professional arborist of the eucalyptus trees in Drainages 1, 2, 3, 4, and 5, that describes their current state and makes recommendations for their long-term arboreal management including for roosting and nesting.
- E. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall revise the landscape plan, dated January 26, 2001, to indicate the planting location of twelve (12) arroyo willows in central Drainage 2 to close the present (farm road) gap in the riparian corridor and offset the unavoidable loss of four willows adjacent to the westerly farm road, which is proposed to be expanded to accommodate the internal subdivision street crossing of Drainage 2.

6. Riparian Corridor Protection

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, revised project plans that demonstrate that no development, including lot lines, shall be located within 30 feet of the edge of any riparian vegetation associated with Streams 1, 2, and 3, or within 30 feet of the centerline of the streams where no riparian vegetation is present. For purposes of this permit condition, riparian vegetation shall be defined as any vegetation that requires or tolerates soil moisture levels in excess of that available in adjacent terrestrial areas and is typically associated with the banks, edges, or terrestrial limits of freshwater bodies, water courses, or surface emergent aquifers.
- B.** The three stream crossings authorized herein shall span the streams with no supports located within the riparian corridors. All construction activities, materials and equipment are prohibited from entering the riparian corridors and their respective buffer zones except as necessary for the construction of one road crossing each on Streams 1, 2 and 3. Prior to commencement of grading, the applicant shall install temporary construction fencing along the outer edge of all riparian buffer zones as shown on the approved revised site plan.

7. Cumulative Public Access Impact Mitigation

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit evidence, for the review and approval of the Executive Director, that the development rights have been permanently extinguished on at least 124 existing legal lots such that the subdivision of property authorized herein shall not result in a net increase of existing legal lots within that geographical area. The lots shall be extinguished only in the Mid-Coast Region of San Mateo County, an area that is generally depicted on Exhibit 16 and that is primarily served by the segment of Highway 1 between its intersection with Highway 92 and Devil's Slide and/or by the segment of Highway 92 west of Highway 280. Each mitigation lot shall be an existing legal lot or combination of contiguous lots in common ownership and shall be zoned to allow development of a detached single-family residence. The legality of each mitigation lot

shall be demonstrated by the issuance of a Certificate of Compliance by the City or County consistent with the applicable standards of the certified LCP and other applicable law.

- B.** For each development right extinguished in satisfaction of subdivision A of this permit condition, the applicant shall, prior to issuance of the coastal development permit execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space or scenic easement to preserve the open space and scenic values present on the property that is the source of the development right being extinguished and to prevent the significant adverse cumulative impact to public access to the coast that would result as a consequence of development of the property for residential use. Such easement shall include a legal description of the entire property that is the source of the development right being extinguished. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. Each offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- C.** For each development right extinguished in satisfaction of subdivision A of this permit condition, the applicant shall, prior to issuance of the coastal development permit, also execute and record a deed restriction, in a form and content acceptable to the Executive Director, requiring the applicant to combine the property that is the source of the development right being extinguished with an adjacent already developed lot or with an adjacent lot that could demonstrably be developed consistent with the applicable certified local coastal program. The deed restriction shall include legal descriptions of all combined and individual lots affected by the deed restriction. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- D.** As an alternative to the method described in subsection B and C above, the applicant may instead, prior to issuance of the coastal development permit, purchase existing legal lots that satisfy the criteria in subsection A above and, subject to the review and approval of the Executive Director, dedicate such lots in fee to a public or private land management agency approved by the Executive Director for permanent public recreational or natural resource conservation purposes.

8. Erosion Control

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicants shall provide, for the review and approval of the Executive Director, an Erosion Control Plan to reduce erosion and, to the maximum extent practicable, retain sediment on-site during and after construction. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff and its ability to carry sediment by diverting incoming flows and impeding internally generated flows, and

retain sediment that is picked up on the project site through the use of sediment-capturing devices. The plan shall also limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters. The Erosion Control Plan shall incorporate the Best Management Practices (BMPs) specified below.

1. Erosion & Sediment Source Control

- a. Sequence construction to install **sediment-capturing devices** first, followed by runoff control measures and runoff conveyances. Land clearing activities should only commence after the minimization and capture elements are in place.
- b. Time the clearing and grading activities to avoid the rainy season (October 15 through April 30).
- c. Minimize the area of bare soil exposed at one time (phased grading).
- d. Clear only areas essential for construction.
- e. Within five days of clearing or inactivity in construction, stabilize bare soils through either non-vegetative BMPs, such as mulching or vegetative erosion control methods such as seeding. Vegetative erosion control shall be established within two weeks of seeding/planting.
- f. Construction entrances should be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
- g. Control wind-born dust through the installation of wind barriers such as hay bales and/or sprinkling.
- h. Soil and/or other construction-related material stockpiled on site shall be placed a minimum of 200 feet from all wetlands and drain courses. Stockpiled soils shall be covered with tarps at all times of the year.
- i. Excess fill shall not be disposed of in the Coastal Zone unless authorized through either an amendment to this coastal development permit or a new coastal development permit.

2. Runoff Control and Conveyance

- a. Intercept runoff above disturbed slopes and convey it to a permanent channel or stormdrains by using earth dikes, perimeter dikes or swales, or diversions. Use check dams where appropriate.
- b. Provide protection for runoff conveyance outlets by reducing flow velocity and dissipating flow energy.

3. Sediment-Capturing Devices

- a. Install stormdrain inlet protection that traps sediment before it enters the storm sewer system. This barrier could consist of filter fabric, straw bales, gravel, or sand bags.

- b. Install sediment traps/basins at outlets of diversions, channels, slope drains, or other runoff conveyances that discharge sediment-laden water. Sediment traps/basins shall be cleaned out when 50% full (by volume).
- c. Use silt fence and/or vegetated filter strips to trap sediment contained in sheet flow. The maximum drainage area to the fence should be 0.5 acre or less per 100 feet of fence. Silt fences should be inspected regularly and sediment removed when it reaches 1/3 the fence height. Vegetated filter strips should have relatively flat slopes and be vegetated with erosion-resistant species.

4. Chemical Control

- a. Store, handle, apply, and dispose of pesticides, petroleum products, and other construction materials properly.
 - b. Establish fuel and vehicle maintenance staging areas located away from all drainage courses, and design these areas to control runoff.
 - c. Develop and implement spill prevention and control measures.
 - d. Provide sanitary facilities for construction workers.
 - e. Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents should not be discharged into sanitary or storm sewer systems. Washout from concrete trucks should be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water.
 - f. Provide adequate disposal facilities for solid waste, including excess asphalt, produced during construction.
 - g. Develop and implement nutrient management measures. Properly time applications, and work fertilizers and liming materials into the soil to depths of 4 to 6 inches. Reduce the amount of nutrients applied by conducting soil tests to determine site nutrient needs.
- B.** The applicant shall undertake development in accordance with the final erosion control plans approved by the Executive Director. No proposed changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. The applicant shall be fully responsible for advising construction personnel of the requirements of the Erosion Control Plan.
- C. Erosion Control Maintenance.** All of the above described erosion control measures shall be maintained pursuant to the following requirements.
- 1. All BMP traps/separators and/or filters shall be cleaned at minimum prior to the onset of the storm season and no later than October 15th each year.
 - 2. Sediment traps/basins shall be cleaned out at any time when 50% full (by volume).
 - 3. Sediment shall be removed from silt fences at any time when it reaches 1/3 the fence height.

4. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
5. Non-routine maintenance activities that are expensive but infrequent, such as detention basin dredging, shall be performed on as needed based on the results of the monitoring inspections described above.

D. Erosion Control Monitoring. Throughout the construction period, the applicants shall conduct regular inspections of the condition and operational status of all structural BMPs required by the approved Erosion Control Plan. The applicant shall report the results of the inspections in writing to the Executive Director prior to the start of the rainy season (no later than October 15th), after the first storm of the rainy season, and monthly thereafter until April 30th for the duration of the project construction period. Major observations to be made during inspections and reported to the Executive Director shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the City of Half Moon Bay shall be allowed to enter the property as needed to conduct on-site inspections throughout the construction period.

9. Storm-water Pollution Prevention

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final **Storm-water Pollution Prevention Plan (SWPPP)**. The SWPPP shall demonstrate that the approved development shall maintain post-development peak runoff rate and average volume at levels equal to pre-development levels, and reduce the post-development loadings of Total Suspended Solids (TSS) so that the average annual TSS loadings are no greater than pre-development loadings. The SWPPP shall incorporate the Best Management Practices (BMPs) described below.

1. Minimize Creation of Impervious Surfaces

- a. Design residential streets for the minimum required pavement widths needed to comply with all zoning and applicable ordinances to support travel lanes, on-street parking, emergency, maintenance and service vehicle access, sidewalks, and vegetated open channels.
- b. Minimize the number of residential street cul-de-sacs and incorporate landscaped areas to reduce their impervious cover. The radius of cul-de-sacs should be the minimum required to accommodate emergency and vehicle turnarounds. Alternative turnarounds shall be employed where allowable.
- c. Avoid curb and gutter along driveways and streets where appropriate.
- d. Incorporate landscaping with vegetation or other permeable ground cover in setback areas between sidewalks and streets.
- e. Use alternative porous material/pavers (e.g., hybrid lots, parking groves, permeable overflow parking, crushed gravel, mulch, cobbles) to the extent practicable for sidewalks, driveways, parking lots, or interior roadway surfaces.

- f. Reduce driveway lengths, and grade and construct driveways to direct runoff into adjacent landscaped areas.
- g. Direct rooftop runoff to permeable areas rather than driveways or impervious surfaces in order to facilitate infiltration and reduce the amount of storm-water leaving the site.

2. Roads and Parking Lots

- a. Install vegetative filter strips or catch basin inserts with other media filter devices, clarifiers, grassy swales and berms, or a combination thereof to remove or mitigating oil, grease, hydrocarbons, heavy metals and particulates from storm-water draining from all roads and parking lots.
- b. Roads and parking lots should be vacuum swept monthly at a minimum, to remove debris and contaminant residue.

3. Landscaping

- a. Native or drought tolerant adapted vegetation should be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
- b. Where irrigation is necessary, the system must be designed with efficient technology. At a minimum, all irrigation systems shall have flow sensors and master valves installed on the mainline pipe to ensure system shutdown in the case of pipe breakage. Irrigation master systems shall have an automatic irrigation controller to ensure efficient water distribution. Automatic irrigation controllers shall be easily adjustable so that site watering will be appropriate for daily site weather conditions. Automatic irrigation controllers shall have rain shutoff devices in order to prevent unnecessary operation on rainy days.
- c. All BMP traps/separators and/or filters shall be cleaned prior to the onset of the storm season and no later than October 15th each year. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
- d. Non-routine maintenance activities that are expensive but infrequent, such as detention basin dredging, shall be performed on as needed based on the results of the monitoring inspections described below.

B. Storm-water Pollution Prevention Monitoring. The applicant shall conduct an annual inspection of the condition and operational status of all structural BMPs provided in satisfaction of the approved SWPPP including the detention basin. The results of each annual inspection shall be reported to the Executive Director in writing by no later than June 30th of each year following the commencement of construction. Major observations to be made during inspections and reported to the Executive Director shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the City of Half Moon Bay shall be allowed to enter the property as needed to conduct on-site inspections of the detention basin and other structural BMPs.

- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director a **Water Quality Monitoring Plan (WQMP)**. The WQMP shall be designed to evaluate the effectiveness of the SWPPP to protect the quality of surface and groundwater and shall provide the following:
1. The WQMP shall specify sampling locations appropriate to evaluate surface and groundwater quality throughout the project site, including, but not limited to all major storm drains.
 2. The WQMP shall specify sampling protocols and permitted standards for all identified potential pollutants including, but not necessarily limited to: heavy metals, pesticides, herbicides, suspended solids, nutrients, oil, and grease.
 3. Beginning with the start of the first rainy season (October 15 - April 30) following commencement of development and continuing until three years following completion of all grading, landscaping and other earth disturbing work, surface water samples shall be collected from the specified sampling locations during the first significant storm event of the rainy season and each following month through April 30. Sampling shall continue thereafter in perpetuity on an annual basis during the first significant storm event of the rainy season.
 4. Results of monitoring efforts shall be submitted to the Commission upon availability.
- D.** If any water quality standards specified in the WQMP are exceeded, the applicant shall assess the potential sources of the pollutant and the potential remedies. If it is determined based on this assessment that applicable water quality standards have not been met as a result of inadequate or failed BMPs, corrective actions or remedies shall be required. If potential remedies or corrective action constitute development, as defined in Section 30106 of the Coastal Act, an amendment to this permit shall be required.
- E. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction over the project site, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

10. Grading Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a **Final Grading Plan** specifying:
1. The respective quantities of cut and fill and the final design grades and locations for all project related grading, including building foundations, streets, drainage, and utilities.
 2. The phasing of all grading during construction.

- B. Grading shall be conducted in strict conformity to the approved Grading Plan, Erosion Control Plan, SWPPP, and habitat protection measures specified in Special Conditions 6, 9 and 10.

11. Project Site Access

- A. Permanent vehicular and pedestrian access to serve the subdivision shall be provided along either the Bayview Drive right-of-way, from Highway 1, or the Foothill Boulevard right-of-way, from Highway 92. The applicant shall pay its fair share for signalization and associated highway intersection lane improvements for the selected permanent entry roadway. The permanent entry roadway shall not be located in, or within 100 feet of, a wetland, as defined in Half Moon Bay LCP Zoning Ordinance Section 18.38.020.E, or in, or within 30 feet of a riparian area, as defined in Half Moon Bay LCP Zoning Ordinance Section 18.38.020.B, provided that improvements to the existing Foothill Boulevard right-of-way segment adjacent to the easterly side of Half Moon Bay High School may occur within the right-of-way if existing adjacent riparian vegetation or wetland areas outside the right-of-way are protected. If Foothill Boulevard is the permanent entry roadway, it shall be designed and constructed as a two-lane street (with a sidewalk and bike lane) to serve the subdivision project, adjacent residences and ranches, and as an emergency additional entry to Half Moon Bay High School, but shall not be connected to Terrace Avenue, Bayview Avenue, or Grandview Avenue.
- B. Until completion of the permanent entry road to the subdivision described in Special Condition 11A above, Terrace Avenue may be used as vehicular access for up to the first 40 homes in the subdivision. Following completion of the permanent entry road to the subdivision, an emergency/fire department gate shall be installed across Terrace Avenue immediately east of the area in the subdivision project occupied by the five (5) trailhead parking spaces indicated on Exhibit 14, provided that the public access walkway to the "loop Trail" (as shown on Exhibit 14) shall remain open and be signed for public use, Terrace Avenue to the east of the gate shall thereafter be used for emergency vehicular access only.
- C. During Project construction, construction vehicle and construction worker traffic may utilize Terrace Avenue to access the Project site, provided that if either the Bayview Drive right-of-way, from Highway 1, or the Foothill Boulevard right-of-way, from Highway 92, is available for use by the applicant then such accessway other than Terrace Avenue shall be used to gain construction access to the subdivision project site. Temporary improvements to either right-of-way other than Terrace Avenue are permitted to accommodate the construction traffic, provided that adjacent riparian vegetation or wetland areas shall be fenced and screened to avoid intrusion by either equipment or materials.

12. Raptor Protection

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a biological survey conducted by a qualified biologist/ornithologist that demonstrates that no development involving physical construction, including grading, shall occur within 100 feet of any nesting habitat for any state or federally listed species of raptor.

July 30, 2008

RECEIVED

AUG 04 2008

CALIFORNIA
COASTAL COMMISSION

Chairperson Patrick Kruer
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Application of Ailanto Properties Inc. for Modified Coastal Development Permit
Pacific Ridge Project, Half Moon Bay, CA

Hearing Date: Not yet set. 180-day period ends November 9, 2008

Dear Chairperson Kruer,

As residents of Terrace Avenue in Half Moon Bay, we wish to express our concerns with the possible issuance of a Modified CDP for the development of Pacific Ridge. Our family has lived on Terrace Avenue for 45 years and we are very concerned about the impact the Project will have on our quality of life.

Background

The Terrace/Highway 1 Signalization Project resulted from the March 2004 Settlement Agreement negotiated between the City, Alianto Properties and the California Coastal Commission. During the Settlement Agreement negotiations, the size of the development was reduced from 126 homes with temporary access to the project through Terrace, to 63 homes with permanent access through Terrace.

On page 46 of Th-7a, Special Condition Number 11, the California Coastal Commission restricted the use of Terrace Avenue to construction access and to serve the first 40 residences, until such time that a permanent access road is constructed. Permanent access for the additional 86 homes would be either Bayview Drive or Foothill Boulevard.

The Vesting Tentative Map for Pacific Ridge did not designate Terrace as the access road for the project. It called out Bayview Drive and/or Foothill Boulevard. Designating Terrace is in violation of the VTM.

No summary or analysis designating Terrace Avenue as the permanent access road to Pacific Ridge was included in the Final 1988 EIR or the Initial Study and Negative Declaration of July 1998 or the 2004 Settlement Agreement. The project proposed in the Settlement Agreement differs substantially from the one described in the outdated EIR. Concerns submitted to the city regarding this noncompliance with CEQA were ignored.

The March 2004 Settlement Agreement provides that Terrace is to be the sole and permanent access for 63 homes in Pacific Ridge. This represents a significant change in the project and, by law, requires a study of the environmental impact prior to the change being made. The underlying issue is that the City, Ailanto and the Coastal Commission

failed to comply with CEQA when they changed the project and did not do a full Environmental Impact Report to determine what impact the revised project would have on the environment.

In 2004, a lawsuit on behalf of the Terrace residents was filed addressing this violation. The judge ruled against the City, Ailanto and the Coastal Commission recognizing the fact that the original plan for the project did not provide for **permanent** use of Terrace and no environmental studies were done before the change. Although the case had merit, it was not heard in court. At a hearing to determine if the case was filed within the 180-day statute of limitations, the judge determined that the statute of limitations had expired and dismissed the case. That the judge ruled on the statute of limitations should not nullify the fact that there is a violation of CEQA with this project. Getting through a deadline doesn't justify a violation being ignored.

“CEQA guidelines recognize that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian.” (CEQA Section 15021)

The Coastal Commission is obligated to follow the guidelines of CEQA and protect the living environment of the residents of Terrace Avenue and the citizens of Half Moon Bay.

The General Plan Circulation Element for the City of Half Moon Bay adopted July 7, 1992 and the Half Moon Bay LCP approved by the Coastal Commission do not designate Terrace Avenue as a collector street. Collector streets provide a street section of 40 feet; Terrace Avenue is only 36 feet wide. This street was designed for light local traffic and was constructed as such. The water pipes, placed close to the surface, have contributed to countless problems on the street with breakage/leakage under the existing light local traffic load. See photos at <http://www.stoptrafficlight.com> The construction traffic will undoubtedly cause an even greater impact to the street. When it is realized by the developer, the City and the Coastal Commission that this street cannot handle the proposed traffic load, what then? Is it guaranteed that this street will not be widened encroaching on the resident's yards or that resident parking on the street will be eliminated?

While preparing the EIR for the Terrace/Highway 1 Project, alternative access sites to Pacific Ridge were rejected from further consideration for their failure to meet the “basic project objective” *“facilitating the safe and efficient movement of vehicles, bicyclists and pedestrians at the Highway 1 and Terrace Avenue intersection”*.

In identifying the Terrace/Highway 1 Project as the most environmentally superior alternative among the other alternatives, surely didn't require any effort and didn't require any analysis. It's plain to see that any alternative that did not directly designate Terrace Avenue was rejected by definition as not “facilitating the safe and efficient

movement of vehicles, bicyclists, and pedestrians at the Highway 1 and Terrace Avenue intersection". That Terrace would be the permanent access road to Pacific Ridge had already been predetermined without adequate analysis.

With a **different** project objective it is very possible that other options for access to Pacific Ridge could be worked out. Bayview Drive, Foothill Boulevard, Lewis Foster Drive and Silver Avenue should all be studied and considered for access to the Pacific Ridge project.

The possibility of using Bayview Drive as the access road has been on hold pending litigation. Bayview Drive could still be a reality and provide access to Pacific Ridge. By providing a short roadway at the north/west edge of the project and continuing through Ailanto property it would be possible to connect to the proposed Bayview Drive. Constructed as planned by the CCC, Bayview with a signal light at Highway 1 could provide the permanent access to the project.

The other proposed access road to Pacific Ridge, Foothill Boulevard, has been eliminated from consideration because of alleged wetlands. However in 2001 the CCC in approving the Pacific Ridge CDP (with conditions) acknowledged that according to a preliminary biological study conducted for the Draft EIR for the proposed construction of Foothill Boulevard, it is possible that Foothill can be realigned to avoid wetlands. Letters in 1999 and 2000, from Ailanto's construction manager, Robert Henry, indicate that Foothill "could be realigned in such a way as to clear all wetlands" by 100 feet, as required. This is the access road that the Coastal Commission called out. Why is the quality of life being disrupted in the Terrace Neighborhood when there are feasible alternatives?

The current plans for the development of Pacific Ridge indicate an emergency vehicle access at the southern boundary of the project leading to an existing roadway. This roadway is rock graded and serves the residents of that area on a daily basis. People using this road, exit and enter either through Lewis Foster Drive or Highway 92. This roadway is located in the area where Foothill Boulevard was to be constructed. The possibility of using this roadway for access to Pacific Ridge must be considered

As a result of the numerous issues concerning the impact of the Terrace/Highway 1 signalization project on the residents of Half Moon Bay, it was decided to do an EIR for the project. Residents of the community opposed the installation of a signal light at this location and expressed many legitimate concerns with the content and preparation of the DEIR. The City in turn decided to change the terms of the agreement and allowed the project to go forward to the Coastal Commission without requiring a signal light and allowed the developer to build 63 homes, instead of the 40 homes which the Coastal Commission had approved without a light. They agreed on a payment of 2.5 million dollars from the developer to be used in the future for traffic mitigation at the intersection of Terrace/Highway 1. The DEIR was suspended and none of the concerns that were submitted were addressed. This action benefited the developer since neither the DEIR or Cal Tran was in favor of the signalization project.

The proposed project enables development of 63 residential units in the Pacific Ridge Subdivision. Construction of that project would involve the movement of construction equipment and supplies along Terrace Avenue throughout the subdivision's construction phase. There is the potential that the movement of large, heavy equipment (loaded on flatbed trucks) could create conditions that could cause the failure of the roadway on Terrace. The construction traffic and the increased traffic generated by the homeowners in the subdivision will increase the noise level in the neighborhood. The developer can take up to 8 years to build this development, exposing the residents of Terrace to significant impacts affecting their health and safety for an extended period of time. It would appear that the rise in air borne particle count would adversely affect families living on Terrace in general and in particular residents that now live on the street and are presently suffering from life threatening lung ailments. This impact to the neighborhood's living environment has not had a high priority in the planning process of Pacific Ridge.

No consideration has been given to the possibility that the proposed park and open space will generate additional traffic in the neighborhood. With the lack of park space in the City, this park will surely attract people from throughout the Coastsides. The five parking spaces allotted for visitors will surely not be enough.

Ailanto Properties has 222 water permits for Pacific Ridge but the location for connecting to the CCWD water supply is still uncertain. Ailanto proposes to construct a 10" water main from Pacific Ridge to the intersection of Highway 1. This water line has not been approved. A CDP for the water project has not been issued.

The development maps for Pacific Ridge indicate an "optional emergency vehicle access" at the southern boundary of Pacific Ridge. Has the fire department agreed to an "optional access" or has the fire department **required** an emergency vehicle access"? This is a critical issue that needs to be addressed.

Further consideration of the Pacific Ridge CDP should be postponed until the entire Beachwood matter is determined. The Beachwood Settlement Agreement and the proposed legislation, AB 1991 should be considered in reviewing the Pacific Ridge Project. This legislation brings a great deal of uncertainty into the process. If Beachwood is built anything like the configuration under discussion, most of the studies used to date would be invalidated. Postponing consideration of this CDP would provide the opportunity to study the added impacts that the development of Beachwood would have on the already threatened living environment on Terrace Avenue. The combined impacts from Pacific Ridge and Beachwood to the health and safety of the residents could be life threatening and this issue has not been studied.

The terms of the Pacific Ridge Settlement Agreement, which predetermine the outcome of the project, have created an unbelievable situation. On page 9 of the Settlement Agreement paragraphs 2 and 3, it is stated that the Coastal Commission staff and the staff of the City shall recommend that the CDP be approved. Documentation provided by

Ailanto Properties (Background, Benefits and Benchmarks for the Ailanto, City of Half Moon Bay and California Coastal Commission Settlement 6/2/04, Page 3, #3, Page 4, #9) tells how the City staff is obligated by the Settlement Agreement to recommend issuance of the CDP.

With the outcome of this project already predetermined by the terms of the Settlement Agreement, how can there be a fair process? The hands of the City and the Coastal Commission staffs have been tied. The staff does not have the opportunity to recommend denial. What purpose will our comments and concerns have if they cannot be considered in making this project better for all involved? We hope that the staff can fulfill the terms of the Settlement Agreement and still be allowed to request modifications or conditions to the project.

LCP Violation

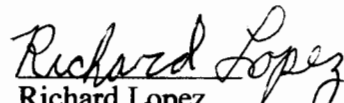
While the Settlement Agreement was being negotiated, the residents of neither Terrace nor the community were given the opportunity to express their concerns on the impact this project could have on the neighborhood as well as on the entire community. Issues related to safety, health, air quality, noise, excessive light and traffic should have been addressed before negotiating an agreement with the developer. The Local Coastal Plan addresses this issue. On page 52, paragraph 2 of the LCP it is stated:

“While residents recognize that alternative routes of travel are beneficial, the quality of life within the neighborhoods is of utmost importance. Therefore, new development should be required to provide access that does not adversely impact existing neighborhoods. New connector roadways between neighborhoods should only be constructed when they are fully endorsed by the residents they are designed to serve.”

We ask that you consider the above comments and that you consider our request to postpone further consideration of the Pacific Ridge Project until the entire Beachwood matter is determined.

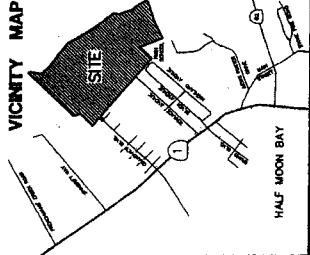
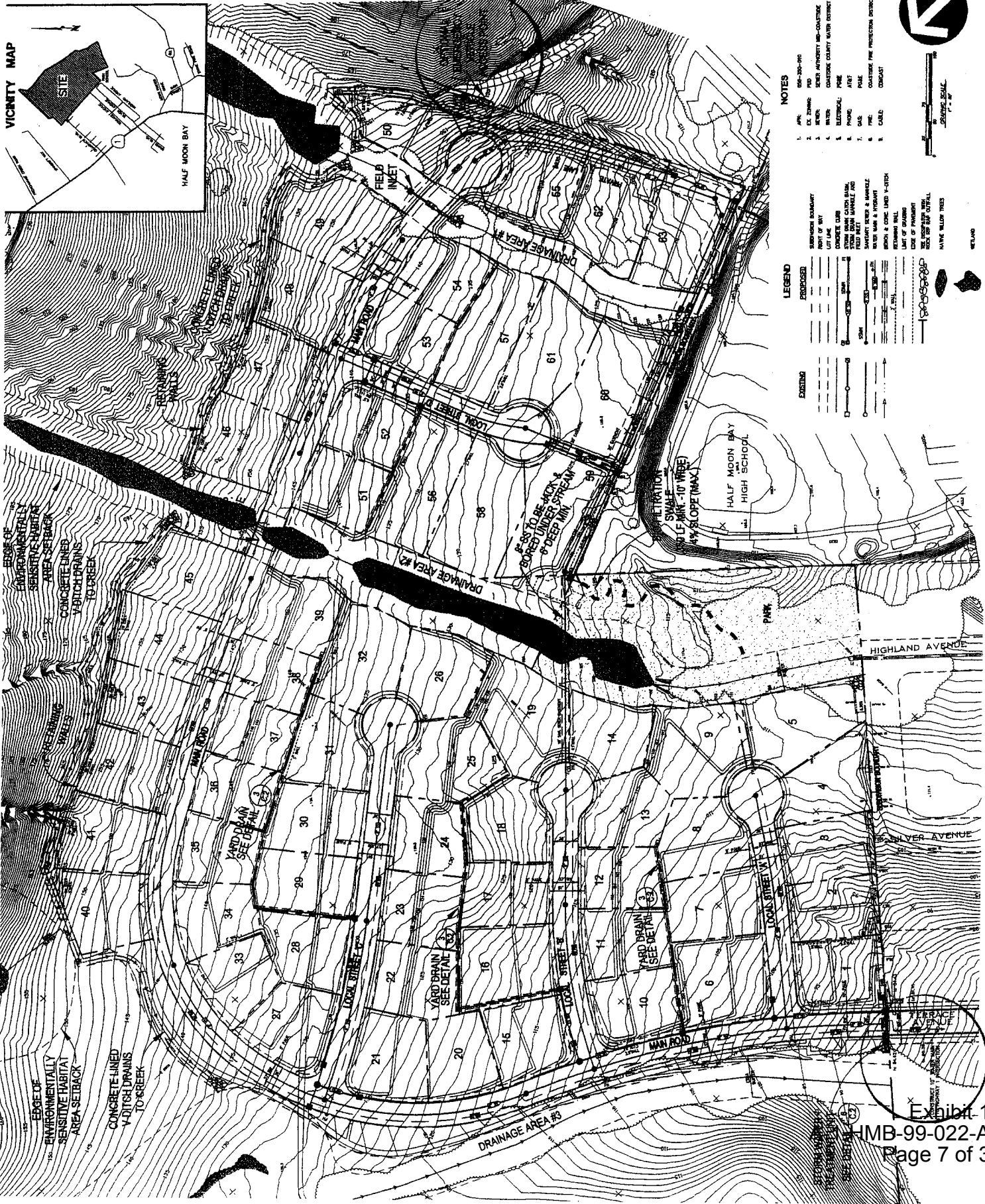
Sincerely,


Lucy Lopez


Richard Lopez

531 Terrace Ave.
Half Moon Bay

cc: California Coastal Commissioners
Steve Blank
Sara Wan
Dr. William A. Burke
Steven Kram
Mary K. Shallenberger
Bonnie Neely
Mike Reilly
Dave Potter
Khatchik Achadjian
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Paul Thayer
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Peter M. Douglas
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Madeline Cavalieri, CCC Analyst



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OWNER
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NOTES
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**DRAINAGE AND
UTILITY PLAN**
Drawing Title
Drawing Number
C.1

Map Submitted with Application of Ailanto Properties for
Modified Coastal Development Permit. Dated: May 12, 2008

Exhibit 16
HMB-99-022-A1
Page 7 of 33

Proposed 10 inch Water Main
Down Terrace to Highway 1

Richard and Joanna Parness
664 Terrace Ave.
Half Moon Bay, CA 94019

August 2, 2008

Chairperson Patrick Kruer
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Modified Coastal Development Permit Application for Pacific Ridge

Dear Chairperson Kruer,

The California Coastal Commission ("CCC") is considering a Modified Coastal Development Permit ("CDP") Application for the Pacific Ridge Subdivision ("Project") in Half Moon Bay. The purpose of this letter is to offer comments on the Project from the residents of Terrace Avenue.

We live on Terrace Avenue, the street proposed for sole construction and residential access to the Project. Many of us have taken a public position opposed to the use of Terrace Avenue to service the Project. We are concerned about the impact the Project will have on our quality of life, and, over the years, we have repeatedly requested that a study be conducted.

Background

In 1999 the City of Half Moon Bay approved a CDP for the Project allowing temporary use of Terrace, requiring the selection of a permanent access within nine months, and mandating construction of two lanes of Foothill Boulevard to Grandview Boulevard.

In 2001 the CCC issued a revised set of Special Conditions for the Pacific Ridge CDP requiring that permanent access to Pacific Ridge be provided via either Bayview to Highway 1, or Foothill Boulevard to Highway 92, and authorizing the temporary use of Terrace for the first 40 homes until the permanent access road was ready.

In 2004, after years of litigation, Ailanto Properties (the developer), the City of Half Moon Bay and the California Coastal Commission settled their disputes pursuant to the terms of a Settlement Agreement. Pursuant to the terms of the Settlement Agreement, and contrary to the CCC 2001 set of Special Conditions, Terrace was designated as sole permanent access for the Project without the requirement of an EIR.

In 2004, on behalf of the Terrace residents, a lawsuit was filed challenging that the Settlement Agreement violated CEQA because it made substantial changes to the Project (i.e. making Terrace the permanent access to the Project) without an environmental analysis of the impacts of this change. CEQA requires that the environmental impacts of a proposal be considered before public agencies can authorize it. The lawsuit was dismissed on a timing technicality. Accordingly, the court did not rule on the substantive CEQA issue.

In 2005 Ailanto and the City of Half Moon Bay began an EIR study on the proposed traffic signal at Terrace Avenue and Highway 1. Substantial public comment was furnished at the onset of the process, including from many residents of Terrace Avenue. After 1-½ years a DEIR was issued, and substantial public comment was furnished. However, at this point, the City of Half Moon Bay and Ailanto reached an agreement whereby they agreed to abandon the proposed traffic signal (and the contentious EIR) in consideration of a restricted payment of \$2.5 million to the City of Half Moon Bay by Ailanto. Obviously, one of the results of this agreement was to deny the residents of Terrace the opportunity to have their environmental concerns addressed.

Current Concerns

Consequently, a full and complete Environmental Impact Report ("EIR") is warranted, if not required under the law, to study the impact this Revised Project will have on our living environment, including, but not limited to, the following issues:

Terrace Avenue – We are specifically concerned about the use of Terrace Avenue as the sole access road to the Pacific Ridge development. Consequently, we want the following items studied, and we want them studied separately for the 500 block and 600 block of Terrace because current conditions are different on each block and the impacts will differ substantially on each block:

Local Street – Terrace was designed as a local residential street. It was developed years before Silver and Highland were developed. Terrace was never intended, designed or engineered to carry either the traffic load it currently does or the proposed construction and residential traffic for Pacific Ridge. Why has a small, local residential street been selected as a major collector street?

Noise – We are concerned about increased noise levels that will accompany the Pacific Ridge construction traffic, the Pacific Ridge residential traffic, and other additional traffic such as visitors to the new park and HMB High School drop-offs.

Air Quality – We are concerned about the increased pollution that will be generated by the increased traffic. We want the air quality impact to Terrace Avenue studied.

Exiting from Terrace – Current exiting times and stacking are generally acceptable to residents of the Terrace-Highland Park neighborhood. We want the impact of the additional Project traffic studied with regard to exiting, stacking and safety, particularly during times of congestion and gridlock.

Increased Level of Traffic – How much additional traffic will result from the Project, and what impact will this increased level of traffic have on the neighborhood?

Terrace Street-Physical Design and Structure and Subterranean Improvements – The design capacity of the street was not intended to support either the current traffic load or the proposed Project traffic load, particularly the construction traffic. We understand that the developer proposes to add an additional 10-inch water line below the surface of Terrace. We are exceedingly concerned about potential damage to the physical street, and corresponding disruption to the residents' way of life. There have been at least two subterranean broken water pipes on Terrace in the current year, plus many others in prior years. One only needs to observe the asphalt patches on the street which are a clear indicator of the repair work. We want a thorough study of the

physical condition of the Terrace street, and what the impacts of the increased Project traffic will have.

Terrace-Street Width - The Terrace street is only 36 feet wide. Under current conditions, when cars are parked on both sides of the street and two cars coming from opposite directions are passing one another, the passing clearances are dangerously close. Often, one car will stop to allow the other to pass. We want the impact of the Pacific Ridge traffic, particularly the construction traffic, studied in this regard.

Flooding and Landslides – Over the years, Terrace has been subjected to flooding and heavy run-off. We are concerned about the impact that the Pacific Ridge development will have on flooding and run-off, particularly polluted run-off, on our neighborhood. We want this issue to be studied.

Emergency Access – We are concerned that Terrace presently is the only access street to the neighborhood. We want a study of emergency access to be made.

Traffic Flow within Terrace-Highland Park – At the June 2, 2004 City sponsored meeting about Pacific Ridge, one resident suggested using Terrace as a one-way street and Silver or Highland as the opposite direction one-way street. The answer from the City was “splitting the load should be considered as part of the CEQA study.” While we do not want to create a neighborhood conflict between streets, in the best interest of the entire neighborhood we want the flow of traffic resulting from the Project within the Terrace-Highland Park neighborhood studied, including splitting the load as the City represented it would do.

Conflict of Interest – The Pacific Ridge Settlement Agreement obligates the CCC Staff to recommend issuing a CDP for this Project. How can the staff prepare a fair report to the Commission when it has been contractually bound to recommend issuing a CDP? This appears to be a conflict of interest. We want this apparent conflict of interest studied as to how it impacts the CCC Staff's ability to properly do their job. We want to know how this affects the CDP process including, but not limited to, the ability of the CCC Staff to address the CDP processes in the best interests of the public and within the spirit of governing law.

Pacific Ridge 1.9 Acre Public Park – Under the Settlement Agreement Ailanto Properties is obligated to dedicate a Public Park. The Park is to be situated approximately at the eastern termination point of Highland Avenue. We are concerned about, the impact of traffic to and from the Park, and the impact of Park visitors using the streets in the Terrace-Highland Park neighborhood to park their cars. We feel this issue should be studied.

Traffic Flow – Recent improvements have been made to the Highway 1-Main Street-Highway 92 roads and intersections. We want the impact of the Project on traffic flow, stacking patterns, gridlock, delay times and other relevant issues studied.

Periods of Study – We want traffic conditions studied during normal hours, during peak traffic hours, during school days, during weekends and holidays, and during peak tourist times such as summer and October-Pumpkin Festival.

Safety – There are safety issues that will result from the increased traffic that this Project will generate, particularly the construction traffic. The 600 block of Terrace Avenue is a dead end street on which young children regularly play. The impact of the Project on safety, particularly on children, should be studied.

General Plan Circulation Element – The present Circulation Element does not include a designation of Terrace as a collector street. For the benefit of the optimal flow and circulation of traffic in the greater Half Moon Bay area, a thorough and detailed study of the Circulation Element is imperative before undertaking the changes that this Project brings. We want the Circulation Element updated by an appropriate study.

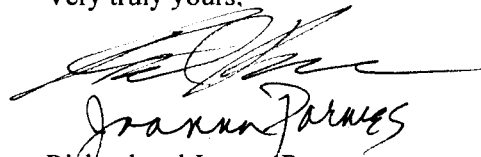
Alternative Routes – A full and complete study of alternatives to the proposed project, and a complete study of the environmental impacts of these alternatives has not been studied. At the August 3, 2004 City Council meeting, councilperson Jim Grady requested that all alternatives should be explored, and stated that he “would like to make sure that we do.” We want all potential alternative routes, including but not limited to Silver, Silver/Terrace combined, Foothill, Lewis Foster, Grandview and Bayview, studied. Further, we understand that the current plan provides for an emergency roadway from the southern boundary of the project to Highway 92. We want this emergency roadway studied as a construction access road and as a primary access road, thus eliminating the need to use Terrace.

Beachwood – If Beachwood is developed, substantial additional traffic will be added to this area. We believe intelligent planning on this Project would call for alternative scenarios for the substantial traffic increase Beachwood would bring to this area. This issue has become particularly relevant with the pending legislation of AB 1991 that proposes to permit the proposed Beachwood development. We want the potential impact of Beachwood studied.

1998 Administrative Draft Foothill EIR – We want the 1998 Administrative Foothill Draft EIR released to the public. Not releasing this study raises questions in minds of many people. One such concern is the appearance that the report may contain information that is intentionally being kept from the public. Also, was a Final EIR prepared? If so, we want that report similarly released to the public.

Thank you for your addressing our concerns.

Very truly yours,



Richard and Joanna Parness,
plus additional signatures below from
fellow Terrace residents

cc: California Coastal Commissioners:

Steve Blank
Sara Wan
Dr. William A. Burke
Steven Kram
Mary K. Shallenberger
Bonnie Neely
Mike Reilly
Dave Potter
Khatchik Achadjian
Larry Clark

Ben Hueso
Michael Chrisman
Paul Thayer or Gail Newton
Dale E. Bonner or James Bourgart

California Coastal Commission Staff:
Peter M. Douglas
Ruby Pap
Madeline Cavalieri

Signed by other Terrace Ave. Residents:

Lucy Lopez
Printed Name

Lucy Lopez
Signature

Richard Lopez
Printed Name

Richard Lopez
Signature

Carol Walsh
Printed Name

Carol Walsh
Signature

David G. Holland
Printed Name

DAVID G. Holland
Signature

T. BRYAN MOREHOUSE
Printed Name

T. Bryan Morehouse
Signature

AMY REGANI MOREHOUSE
Printed Name

Azleah Morehouse
Signature

531 Terrace Ave.
Half Moon Bay, CA 94019

531 Terrace Ave.
Half Moon Bay, CA 94019

675 Terrace Ave.
Half Moon Bay, CA 94019

656 Terrace Ave.
Half Moon Bay, CA 94019

624 Terrace Ave.
Half Moon Bay, CA 94019

624 Terrace Ave.
Half Moon Bay, CA 94019

John E. Rose
Printed Name

John E. Rose
Signature

Lynette S. Rose
Printed Name

Lynette S. Rose
Signature

Robert Clinton
Printed Name

Robert Clinton
Signature

ROZANNE A. CLINTON
Printed Name

Rozanne A. Clinton
Signature

FRANCINE Mueller
Printed Name

Francine Mueller
Signature

Ketaki R. Dieder
Printed Name

Ketaki R. Dieder
Signature

Joseph B. Strecker
Printed Name

Joseph B. Strecker
Signature

Tanya Goldberg
Printed Name

Tanya Goldberg
Signature

PATRICK ARANDA
Printed Name

Patrick Aranda
Signature

551 Terrace Ave.
Half Moon Bay, CA 94019

551 Terrace Ave.
Half Moon Bay, CA 94019

515 Terrace Ave.
Half Moon Bay, CA 94019

515 Terrace Ave.
Half Moon Bay, CA 94019

570 Terrace Ave.
Half Moon Bay, CA 94019

514 Terrace Ave.
Half Moon Bay, CA 94019

525 Terrace Ave.
Half Moon Bay, CA 94019

525 Terrace Ave.
Half Moon Bay, CA 94019

530 Terrace Ave.
Half Moon Bay, CA 94019

TERRY BELLO
Printed Name

Terry Bello
Signature

Michael D. Orlidy
Printed Name

Michael D. Orlidy
Signature

Mayra Lopez
Printed Name

Mayra Lopez
Signature

Carmen Lopez
Printed Name

Carmen Lopez
Signature

Emily Bello
Printed Name

Emily Bello
Signature

EDIE PHILLIPS
Printed Name

Edie Phillips
Signature

Shannon Lynn Henretty
Printed Name

Shannon Lynn Henretty
Signature

Paul Henretty
Printed Name

Paul Henretty
Signature

ANTONIO FRED WHELEN
Printed Name

Antonio Fred Whelen

550 - Terrace Ave.
Half Moon Bay, CA 94019

559 Terrace Ave.
Half Moon Bay, CA 94019

558 Terrace Ave.
Half Moon Bay, CA 94019

558 Terrace Ave.
Half Moon Bay, CA 94019

550 Terrace Ave.
Half Moon Bay, CA 94019

600 Terrace Ave.
Half Moon Bay, CA 94019

625 Terrace Ave.
Half Moon Bay, CA 94019

625 Terrace Ave.
Half Moon Bay, CA 94019

541 Terrace Ave.
Half Moon Bay, CA 94019

MARSA Gullmes
Printed Name

Marya Gullmes
Signature

Terrie Acampora
Printed Name

[Signature]
Signature

MELINDA SANKOFF
Printed Name

[Signature]
Signature

ELLEN PALMER
Printed Name

Ellen Palmer
Signature

JOHN GRUBBS
Printed Name

[Signature]
Signature

REBECCA GRUBBS
Printed Name

Rebecca Grubbs
Signature

Maria Connie Whelan
Printed Name

Maria Connie Whelan
Signature

Mey Norris
Printed Name

Mey Norris
Signature

MATT NORRIS
Printed Name

MATT NORRIS

601 Terrace Ave.
Half Moon Bay, CA 94019

608 Terrace Ave.
Half Moon Bay, CA 94019

609 Terrace Ave.
Half Moon Bay, CA 94019

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Half Moon Bay, CA 94019

616 Terrace Ave.
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616 Terrace Ave.
Half Moon Bay, CA 94019

541 Terrace Ave.
Half Moon Bay, CA 94019

632 Terrace Ave.
Half Moon Bay, CA 94019

632 Terrace Ave.
Half Moon Bay, CA 94019

WENDY MANSELL

Printed Name

Wendy Mansell

Signature

Drake Laface

Printed Name

Drake Laface

Signature

Marge Price-Laface

Printed Name

Marge Price-Laface

Signature

ROBERT MANSELL

Printed Name

R. Mansell

Signature

Rae Yamane

Printed Name

Rae Yamane

Signature

MICHAEL W MONAHAN

Printed Name

Michael W Monahan

Signature

Robert Moules

Printed Name

Robert Moules

Signature

Bertina Moules

Printed Name

Bertina Moules

Signature

Barbara A Smith

Printed Name

BARBARA A. SMITH

683 Terrace Ave.
Half Moon Bay, CA 94019

648 Terrace Ave.
Half Moon Bay, CA 94019

648 Terrace Ave.
Half Moon Bay, CA 94019

683 Terrace Ave.
Half Moon Bay, CA 94019

687 Terrace Ave.
Half Moon Bay, CA 94019

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Half Moon Bay, CA 94019

691 Terrace Ave.
Half Moon Bay, CA 94019

691 Terrace Ave.
Half Moon Bay, CA 94019

695 Terrace Ave.
Half Moon Bay, CA 94019

D. J. H. S. 114
Printed Name

[Signature]
Signature

Steve Walker
Printed Name

[Signature]
Signature

Julie Walker
Printed Name

[Signature]
Signature

Marianne Holland
Printed Name

[Signature]
Signature

Lorena Galindo
Printed Name

[Signature]
Signature

Miguel Perez
Printed Name

[Signature]
Signature

Michael Horamson
Printed Name

[Signature]
Signature

Jean Barry
Printed Name

[Signature]
Signature

Gar V. Torre
Printed Name

[Signature]
Signature

695 Terrace Ave.
Half Moon Bay, CA 94019

699 Terrace Ave.
Half Moon Bay, CA 94019

699 Terrace Ave.
Half Moon Bay, CA 94019

656 Terrace Ave.
Half Moon Bay, CA 94019

1057 Terrace Ave.
Half Moon Bay, CA 94019

657 Terrace Ave.
Half Moon Bay, CA 94019

641 Terrace Ave.
Half Moon Bay, CA 94019

641 Terrace Ave.
Half Moon Bay, CA 94019

617 Terrace Ave.
Half Moon Bay, CA 94019

Mary G Torre
Printed Name

Mary G Torre
Signature

Ed Daniels
Printed Name

Kristina J. Daniels
Signature

Roger Gregg
Printed Name

Roger Gregg
Signature

Gary Amara
Printed Name

Gary Amara
Signature

Jerry Lynn Perdue
Printed Name

Jerry Lynn Perdue
Signature

Mary Z. Wynne
Printed Name

Mary Z. Wynne
Signature

Robert J. Wynne, Jr.
Printed Name

Robert Wynne, Jr.
Signature

Leilani Ortiz
Printed Name

Leilani Ortiz
Signature

Nicholas Velarde
Printed Name

Nicholas Velarde
Signature

617 Terrace Ave.
Half Moon Bay, CA 94019

570 Terrace Ave.
Half Moon Bay, CA 94019

529 Terrace Ave.
Half Moon Bay, CA 94019

521 Terrace Ave.
Half Moon Bay, CA 94019


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Half Moon Bay, CA 94019

511 Terrace Ave.
Half Moon Bay, CA 94019

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Half Moon Bay, CA 94019

507 Terrace Ave.
Half Moon Bay, CA 94019

507 Terrace Ave.
Half Moon Bay, CA 94019

Deanna Rocha
Printed Name


Signature


Printed Name


Signature
Elizabeth S. Flook

Printed Name
Elizabeth S. Flook

Signature

Printed Name

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Printed Name

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Signature

Printed Name

502 Terrace Ave.
Half Moon Bay, CA 94019

590 Terrace Ave.
Half Moon Bay, CA 94019

590 Terrace Ave.
Half Moon Bay, CA 94019

Terrace Ave.
Half Moon Bay, CA 94019

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Half Moon Bay, CA 94019

Terrace Ave.
Half Moon Bay, CA 94019

Terrace Ave.
Half Moon Bay, CA 94019

Jerry and Barbara Steinberg
591 Terrace Avenue
Half Moon Bay CA 94019

September 12, 2008

Chairperson Patrick Kruer
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco CA 94105

RECEIVED

SEP 15 2008

CALIFORNIA
COASTAL COMMISSION

RE: Modified Coastal Development Permit Application
for Pacific Ridge/Ailanto Project, Half Moon Bay, California

Dear Chairperson Kruer;

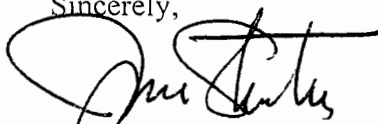
In the haste to bring the Pacific Ridge modified Coastal Development Permit (CDP) to a Coastal Commission Committee hearing, Ailanto Properties has NOT submitted their water infrastructure plans to the Coastside County Water District (CCWD) for review and approval. CCWD has indicated that this must be done before any such plans are incorporated into the project's CDP.

An understanding of this issue can be obtained by watching the complete video (Public presentations and Board of Directors DISCUSSION) on the attached DVD and reviewing the enclosed five Paste-Up Boards showing:

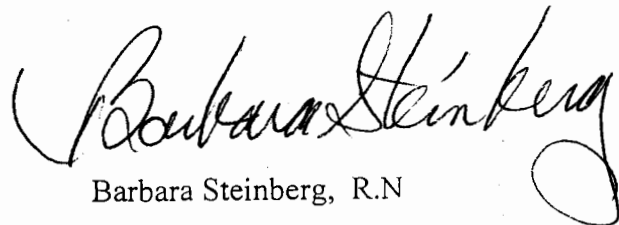
- Board # 2: Letter from CCWD Engineer dated 6/15/01 to Braden with copy to Ailanto Properties, Inc.
- Board # 3: Attachment to letter on Board # 2 showing required easements.
- Board # 4: Lot layout plan from application of Ailanto Properties, Inc. for Modified Coastal Development Permit dated May 13, 2008. This shows a 10" water line running down Terrace Avenue from Highway 1.
Note: This was NOT submitted to CCWD and is NOT in agreement with their letter shown on Boards 2 and 3.
- Board # 5: Photos indicate the fragile condition of Terrace Avenue with an over 45
& 6: year old water main close to surface.

Thank you for reviewing this material. We believe this health and safety issue, as discussed in the DVD video, should be resolved before the California Coastal Commission schedules a CDP Hearing on this project.

Sincerely,

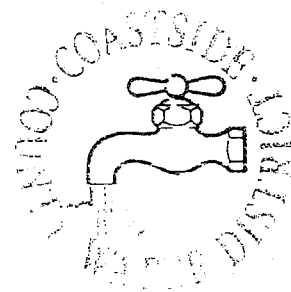


Jerry Steinberg, C.E.



Barbara Steinberg, R.N

JUN 16 2001



June 15, 2001

Mr. Richard Braden
Mackay & Soms
2430 Camino Ramon, Suite 125
San Ramon, CA 94583-4324

Re: Pacific Ridge Development

Dear Mr. Braden:

This letter is in response to your letter dated May 30, 2001, which transmitted a copy of the proposed final map for "Pacific Ridge, Half Moon Bay, Phase 1" and the Coastal Commission Exhibit, and requested a letter noting review of this map and stating any easements that may be required with the map.

For the development as proposed by the Subdivision Lot Map dated January 26, 2001, easement requirements will be as described below and as shown in red on the copy of that document returned herewith. Some of the total easement requirements are outside of the boundary of Lots A & B, but they are described below for information and coordination purposes:

1. Easement No. 1. A 20 foot wide easement will be required from southeastern edge of the development (at Foothill Blvd.) to the CCWD's existing 12 inch Carter Hill West pipeline which is located within an easement southerly of Half Moon Bay High School. This easement is required for a 12 inch diameter water pipeline. If Foothill Boulevard is constructed as part of the phase 1 development, the water pipeline would be located within the Foothill Boulevard right of way.
2. Easement No. 2. A 20 foot wide easement will be required within or adjacent to the eastern boundary of lot 36 for a pipeline connection to the CCWD's existing 6 inch pipeline within Highland Avenue.
3. Easement No. 3. A 20 foot wide easement will be required within or adjacent to the western boundary of Lot 42 for a pipeline connection to the CCWD's existing 8 inch pipeline within Terrace Avenue.
4. Easement No. 4. A 20 foot wide easement will be required for a future pipeline connection within proposed Bayview Drive.
5. Easement No. 5. A 20 foot wide easement will be required adjacent to the western boundary of Lot B and within Lots 11 & 12 for (1) extension of the proposed 12 inch transmission pipeline, and (2) a pipeline connection with the CCWD's existing 6 inch pipeline within Grand View Blvd.
6. Easement No. 6. A 20 foot wide easement will be required from Easement No. 5 to the northwestern edge of Lot B for a future extension of the 12 inch transmission pipeline.
7. Potential Easements for Fire Hydrants and Water Meter Boxes. If any fire hydrants or water meter boxes will be located outside of public street right of way areas, easements will be required. Often a 2 foot wide public utility easement is required on each side of each street right of way to accommodate water meter boxes, fire hydrants, and other utility boxes.

706 MAIN STREET, HALF MOON BAY, CALIFORNIA 94019 (650) 726-4405

**Letter from CCWD Engineer . . .
with copy to Ailanto Properties, Inc.**

2

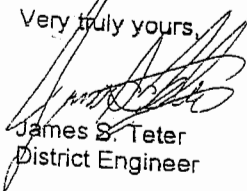
Page 2
Mr. Richard Braden
June 15, 2001

8. Street Right of Way Areas. The CCWD will require water pipelines to be constructed within all of the proposed streets. It is assumed that the streets will be public right of way areas. If not, easements will be required for the water pipelines.

One of the primary purposes of this letter is to provide information regarding all of the pipeline connections with existing water pipelines that will be required by the CCWD. These pipeline connections are the responsibility of the developer including providing required easements for required pipeline extensions outside of the subdivision boundary. The location of existing CCWD water pipelines are shown on the water distribution system map set, a copy of which can be purchased at the CCWD office.

If you have questions or require additional information, please contact the interim General Manager, David Mier, at the CCWD office.

Very truly yours,


James S. Teter
District Engineer

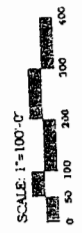
Enc.

cc: David Mier
Ailanto Properties, Inc.

ATTACHMENT TO LETTER DATED 6/15/2001
FROM JAMES TETER, DISTRICT ENGINEER
COASTSIDE COUNTY WATER DISTRICT (CCWD)
TO RICHARD BRADEN, MCKAYE SOUNDS BOATH
CC: TO DAVID MIER, ATLANTIC PROPERTIES INC.

Pacific Ridge At Half Moon Bay SUBDIVISION LOT MAP

TOTAL LOT COUNT: 134 LOTS
& 1 OPEN SPACE/ CONSERVATION
PARCEL



Lead Planner:
Linda A. Aronson
Randy Planning & Design, Inc.
1415 N. Broadway, Suite 200
San Mateo, CA 94401

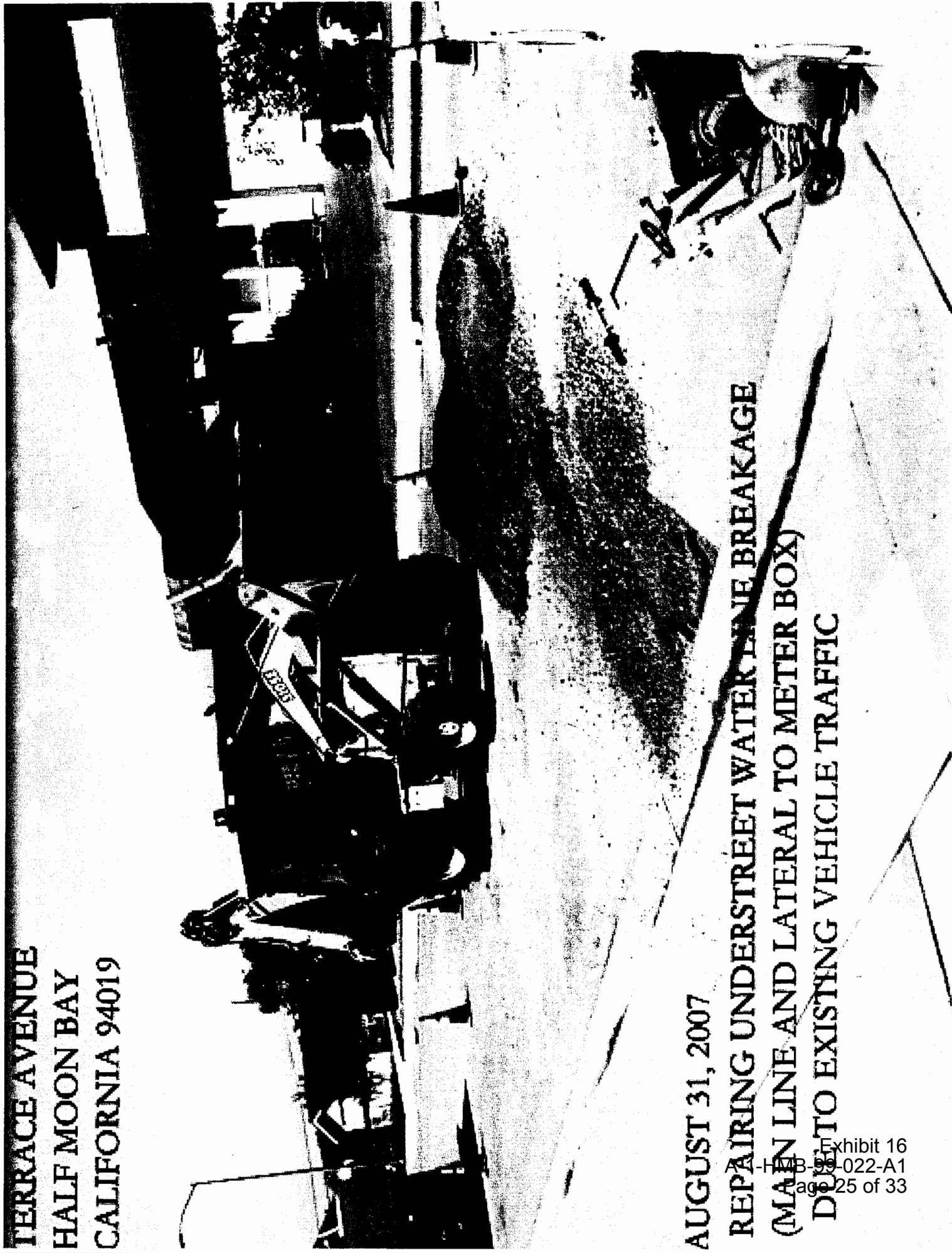
Owner:
Atlantic Properties, Inc.
One Market Plaza, Suite 1775
San Francisco, CA 94103

TO 6 INCH EXISTING
CCWD PIPELINE
CONNECTION
WITHIN GRAND
VIEW BLVD

TO 6 INCH EXISTING
CCWD PIPELINE
CONNECTION
WITHIN TERRACE
AVENUE

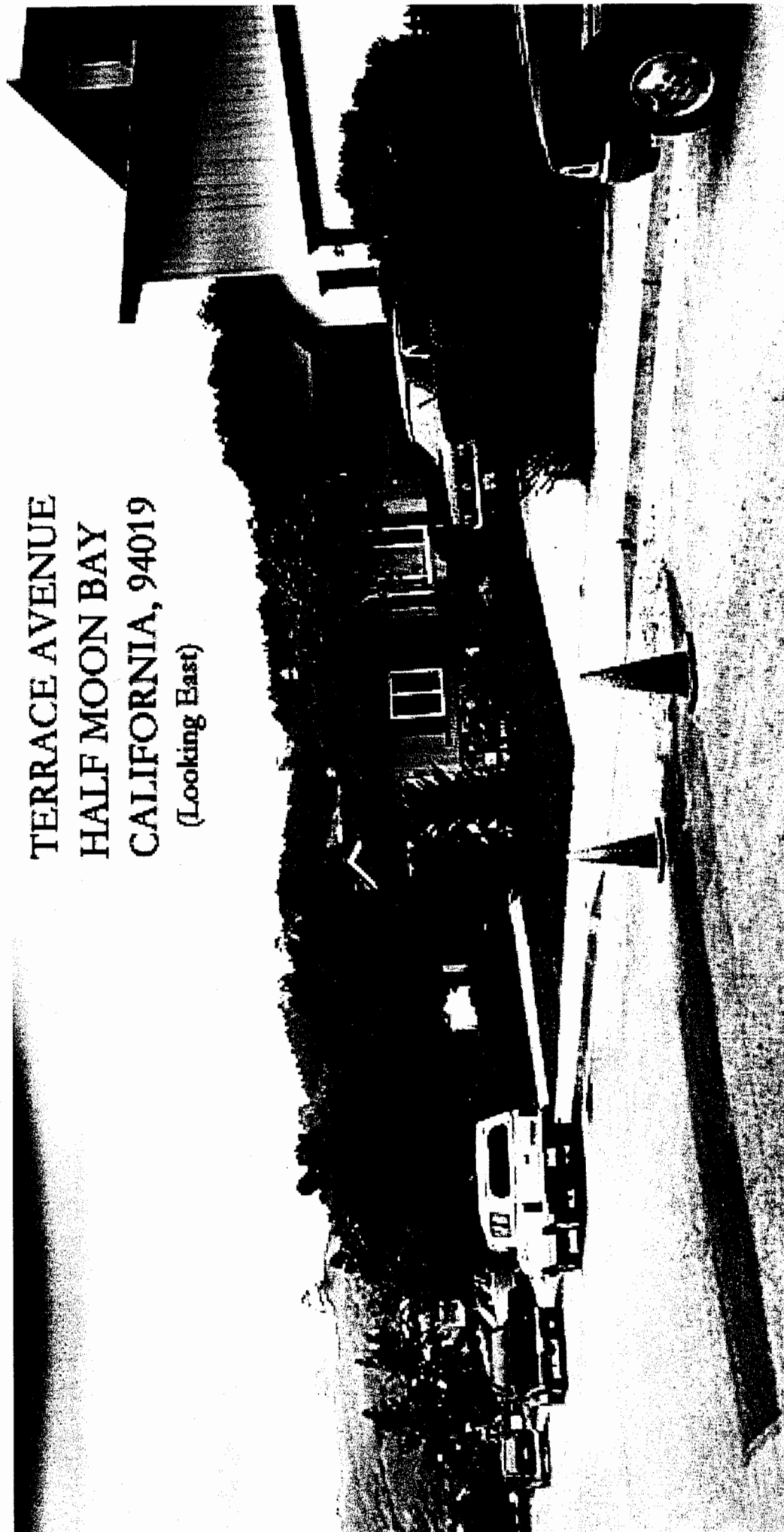
TO 6 INCH EXISTING
CCWD PIPELINE
CONNECTION
WITHIN HIGHLAND AVENUE

TERRACE AVENUE
HALF MOON BAY
CALIFORNIA 94019



AUGUST 31, 2007
REPAIRING UNDERSTREET WATER LINE BREAKAGE
(MAIN LINE AND LATERAL TO METER BOX)
DUE TO EXISTING VEHICLE TRAFFIC

TERRACE AVENUE
HALF MOON BAY
CALIFORNIA, 94019
(Looking East)



REPEATED UNDERSTREET WATER LINE BREAKAGE DUE TO
EXISTING VEHICLE TRAFFIC - August 9, 2007

CAN THIS ROADWAY CARRY THE ADDITIONAL TRAFFIC FOR 63
PROPOSED HOMES IN THE PACIFIC RIDGE/ OAKLAND PROPERTY
DEVELOPMENT? (and the CONSTRUCTION EQUIPMENT)
IS THIS A HEALTH AND SAFETY ISSUE?

Jerry and Barbara Steinberg
591 Terrace Avenue
Half Moon Bay CA 94019

September 27, 2008

Chairperson Patrick Kruer
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco CA 94105

RECEIVED

SEP 29 2008

CALIFORNIA
COASTAL COMMISSION

RE: Modified Coastal Development Permit Application
for Pacific Ridge/Ailanto Project, Half Moon Bay, California

Dear Chairperson Kruer;

This is a follow-up letter to our previous letter and submittal of September 12, 2008 on this subject.

Enclosed are the following:

1. Letter from Coastside County Water District from David Dickson, General Manager, to Ailanto Properties dated September 17, 2008 with a copy to the California Coastal Commission indicating:

"The District is concerned that Ailanto Properties, in an Application for Modified Coastal Development Permit submitted to the California Coastal Commission on May 13, 2008, represented that water service for the development would be supplied by a new 10" water line within Terrace Avenue. We have neither seen nor approved any such plan. In the absence of a water service agreement that provides for water infrastructure meeting the District's requirements, Ailanto Properties does not have a water service commitment from the Coastside County Water District."

2. Letter from Coastside County Water District dated January 12, 2001 from Carol Cupp, President, Board of Directors to the California Coastal Commission, Mr. Chris Kern (with a copy to Sara Wan, Chair, California Coastal Commission) stating, in summary,

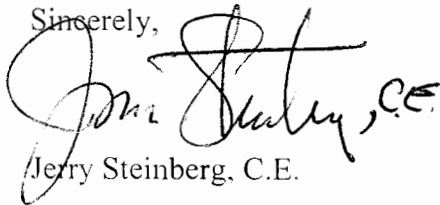
"The developer of the Pacific Ridge Development must complete the engineering review process and execute a water service agreement with the Coastside County Water District in order to obtain a guarantee of water service for the development."

3. Photos indicating the most recent examples (August/September 2008) of the fragile condition of Terrace Avenue roadway.

As of this date (September 27, 2008) Ailanto Properties has not provided their initial submittal for review by CCWD.

Thank you for reviewing this material. We believe that Ailanto Properties may have "crossed the line" from an erroneous submittal of information (i.e. 10 inch water line running down Terrace Avenue to Highway One) to one approaching a fraudulent submittal for a modified CDP. We believe this issue must be resolved before the California Coastal Commission schedules a CDP hearing on this project.

Sincerely,


Jerry Steinberg, C.E.


Barbara Steinberg, R.N.

cc: California Coastal Commissioners:

Steve Blank
Sara Wan
Dr. William A. Burke
Steven Kram
Mary K. Shallenberger
Bonnie Neely
Mike Reilly
Dave Potter
Khatchik Achadjian
Larry Clark
Ben Hueso
Michael Chrisman
Paul Thayer
Dale E. Bonner

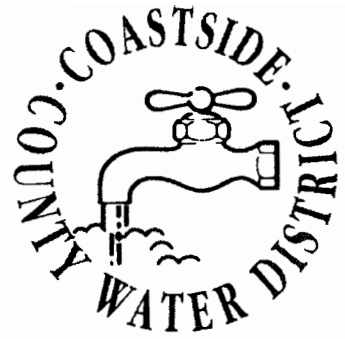
California Coastal Commission Staff:

Peter M. Douglas, Executive Director
Ruby Pap, Staff Supervisor
Madeline Cavaliere, Staff Analyst

Bonnie McClung, Mayor of Half Moon Bay
David Dickson, General Manager CCWD

September 17, 2008

Mr. Albert Fong
President
Ailanto Properties, Inc.
1901 Harrison Street, Suite 1430
Oakland, CA 94612



Re: Water Service for Pacific Ridge Development

Dear Mr. Fong:

I am writing to follow up on our meeting of August 14 and on a meeting District staff had September 11 with Doug Flett, an engineer working with DK Consulting on water infrastructure design for your Pacific Ridge project. We appreciate the commitment Ailanto Properties has shown to understanding and meeting the District's requirements.

We emphasized two points with Mr. Flett, consistent with the discussion in our August 14 meeting with you:

- Ailanto Properties needs to provide the District with a formal initial submittal as specified in our Regulations Regarding Water Service Extensions.
- The District will require, as we have repeatedly stated in past correspondence with Ailanto Properties, that water service be provided to the development via a pipeline from the Carter Hill tanks or the Carter Hill pipeline.

The District is concerned that Ailanto Properties, in an Application for Modified Coastal Development Permit submitted to the California Coastal Commission on May 13, 2008, represented that water service for the development would be supplied by a new 10" water line within Terrace Avenue. We have neither seen nor approved any such plan. In the absence of a water service agreement that provides for water infrastructure meeting the District's requirements, Ailanto Properties does not have a water service commitment from the Coastside County Water District.

The District appreciates your attention to our concerns, and we look forward to receiving your initial submittal in the near future.

Sincerely yours,

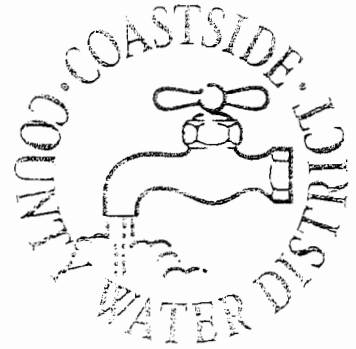
A handwritten signature in black ink, appearing to read "David R. Dickson".

David R Dickson
General Manager

cc: California Coastal Commission

January 12, 2001

California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219



Attention: Mr. Chris Kern, Supervisor of Regulation & Planning

Dear Mr. Kern:

At the January 9, 2001 Board of Directors meeting of the Coastside County Water District, Directors Eleanor Wittrup reported that at a recent California Coastal Commission meeting, a commissioner inquired about the status of the District's commitment to serve the Pacific Ridge project. The purpose of this letter is to provide a brief status report to address this question.

In 1988 the Coastside County Water District executed a Purchase Agreement with Ailanto Properties, Inc. which provided two hundred twenty two 5/8" x 3/4" water service connections. One additional 5/8" x 3/4" water service connection was provided by a Second Addendum to the Water Service Connection Purchase Agreement dated October 10, 1989 for the parcel of land which is now proposed to be developed as Pacific Ridge. However, this Purchase Agreement is not a guarantee to supply water to the development. The Coastside County Water District's commitment to provide water service to a development such as Pacific Ridge is contained in a Water Service Agreement with the developer. Currently there is no Water Service Agreement for the Pacific Ridge development. Prior to the preparation of a Water Service Agreement, it is necessary for the developer to complete the Coastside County Water District's engineering review process. The developer has started the engineering review process, but has not completed it satisfactorily. Our files indicate that the most recent submittal by the developer was Preliminary Improvement Plans on August 18, 1998, and these preliminary plans were reviewed by Coastside County Water District's Engineer, to assist the developer's consulting engineer in completing the plans in conformance with CCWD Final Submittal requirements. In summary, the developer of the Pacific Ridge development must complete the engineering review process and execute a Water Service Agreement with the Coastside County Water District in order to obtain a guarantee of water service for the development.

If you have any questions or require further information in regards to this matter, please do not hesitate to contact District staff or myself. Also, I would like to take this opportunity to respectfully request that in the future, any questions of the Coastside County Water District be submitted in writing to the District office. This procedure will afford the District the opportunity to respond directly and to ensure that District staff is addressing specific questions in a timely manner.

Thank you very much for your assistance in this matter.

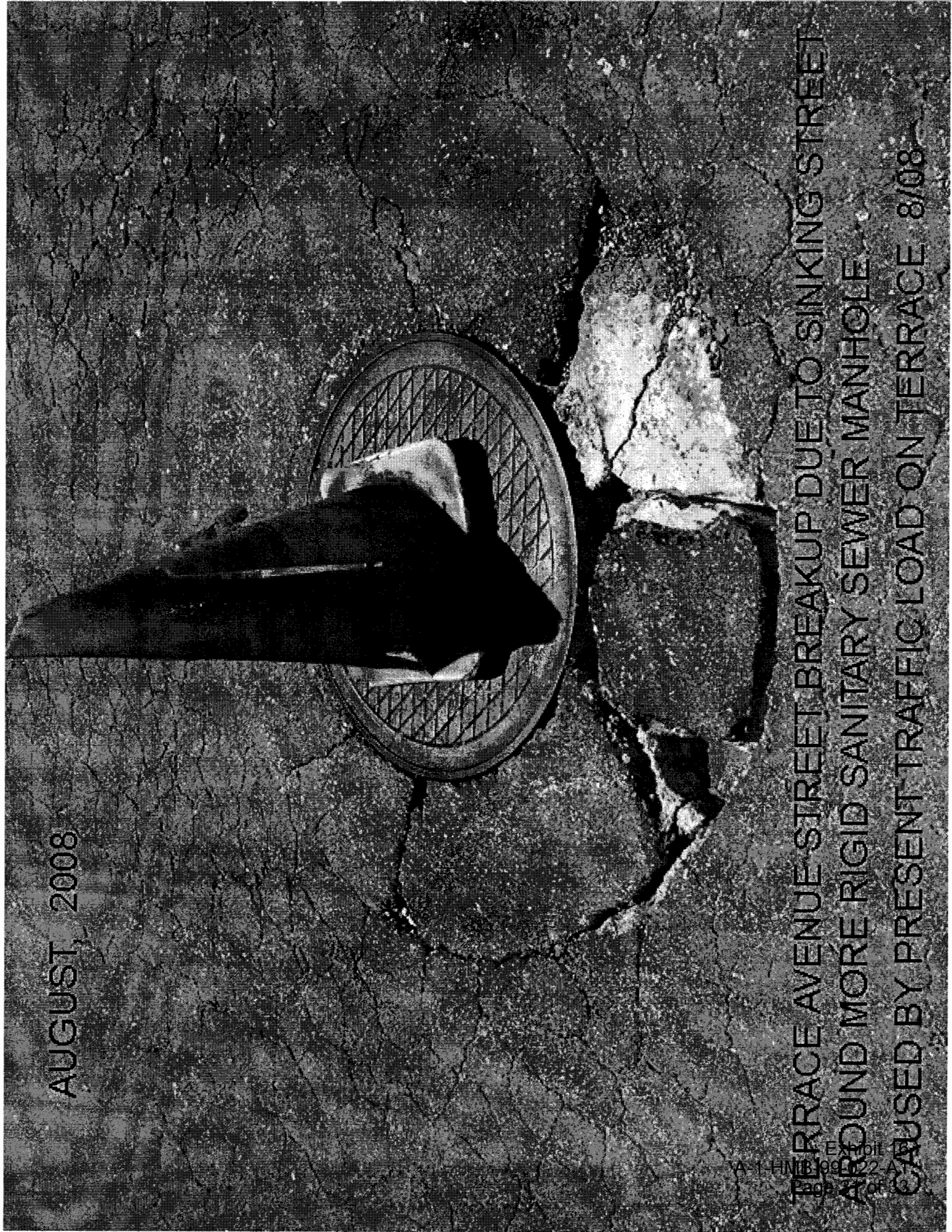
Sincerely,

Carol Cupp
President, Board of Directors

cc: Sara Wan, California Coastal Commission, Chair
Coastside County Water District Board of Directors

Exhibit 16
A-1-HMB-99-022-A1
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AUGUST, 2008



TERRACE AVENUE STREET BREAKUP DUE TO SINKING STREET
AROUND MORE RIGID SANITARY SEWER MANHOLE
CAUSED BY PRESENT TRAFFIC LOAD ON TERRACE 8/08

EX-111
A-1-HN-009-002-A
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SEPTEMBER 2008

TERRACE AVENUE STREET REPAIR DUE TO SINKING STREET
AROUND MORE RIGID SANITARY SEWER MANHOLE.
CAUSED BY PRESENT TRAFFIC LOAD ON TERRACE 9/08

TERRACE AVENUE STREET REPAIR DUE TO SINKING
STREET AROUND MORE RIGID SANITARY SEWER
MANHOLE CAUSED BY PRESENT
TRAFFIC LOAD 9/08

SEPTEMBER, 2008

NOTE: LARGER AREA OF ASPHALT
REMOVED / REPLACED. IN AN ATTEMPT
TO SMOOTH OUT THE RISE IN
ELEVATION AT THE MANHOLE.