

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT ST, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260
FAX (415) 904-5400
TDD (415) 597-5885

F14

NORTH CENTRAL COAST DISTRICT DEPUTY DIRECTOR'S REPORT

For the

July Meeting of the California Coastal Commission

MEMORANDUM

Date: **July 13, 2012**

TO: Commissioners and Interested Parties

FROM: Dan Carl, North Central Coast District Deputy Director

SUBJECT: **Deputy Director's Report**

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the North Central Coast District Office for the **July 13, 2012** Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the North Central Coast District.

NO ITEMS TO REPORT THIS MONTH

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**Memorandum****July 10, 2012**

To: Commissioners and Interested Parties

FROM: Dan Carl, North Central Coast District Deputy Director
North Central Coast District

Re: *Additional Information for Commission Meeting
Friday July 13, 2012*

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
F17a	SMC-NOID-1-12 MWSD	Email from Mark A. Massara	1
F18a	A-2-HMB-12-011 Gibraltar Capital	Correspondence, Jennifer Pasquini	2-11
F18a	A-2-HMB-12-011 Gibraltar Capital	Email from Cameron Jeffs	12-26
F19a	2-11-024 City of Daly City	Correspondence, Bill McLaughlin	27-28

F17a

From: Mark Massara [mailto:markmassara@coastaladvocates.com]
Sent: Tuesday, July 10, 2012 9:16 AM
To: Carl, Dan@Coastal; Dreher, Nicholas@Coastal; Cavalieri, Madeline@Coastal
Cc: Clemens Heldmaier
Subject: MWSD PWP NOID School House Water Tank

Hi Dan, Madeline & Nick

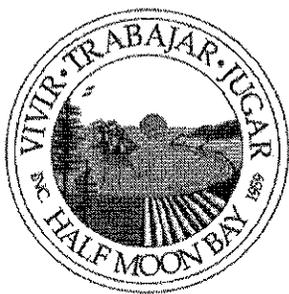
On behalf of Montara Water and Sanitary District, I would like to thank you for your staff work and analysis on MWSD NOID SMC-NOID-1-12.

We have read through the staff report and are in agreement with your conclusions and recommendations. While we cannot personally be present for meeting in Chula Vista this week, we would appreciate it if you would inform members of the Coastal Commission that we are in agreement with your recommendations and urge them to go forward and approve the NOID as proposed on Friday July 13, 2012 (F17a).

Please do not hesitate to contact me if I can provide you additional information or answer any questions.

Mark A. Massara
c: 805 895 0963

F18a



CITY OF HALF MOON BAY

Office of the City Attorney
PO BOX 481, Santa Cruz, CA 95061-0481
Telephone: (831) 423-8383
Fax: (831) 576-2269

July 9, 2012

VIA OVERNIGHT MAIL

RECEIVED

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

JUL 10 2012
CALIFORNIA
COASTAL COMMISSION

Re: Appeal No.: A-2-HMB-12-011
Applicant: Gibraltar Capital
Appellants: Commissioners Brian Brennan and Steve Kinsey; John F. Lynch

Project Location: 320 Church Street in the City of Half Moon Bay, San Mateo County (APNs 056-150-010 and 056-150-120)

Project Description: Subdivision of two parcels, totaling 5.5 acres, into 12 residential lots and 1 remainder lot with associated infrastructural improvements, including utilities and construction of a private road.

Dear California Coastal Commission:

Pursuant to the Commission's ex parte communication requirements, enclosed are copies of a letter dated July 9, 2012 from Anthony P. Condotti, City Attorney for the City of Half Moon Bay, regarding the above-referenced matter for distribution to the following Commissioners and Alternates whose mailing addresses are that of the Commission's Headquarters Office:

1. Dan Carl, Deputy Director, North Central Coast District Office;
2. Madeline Cavalieri, District Manager, North Central Coast District Office;
3. Steve Blank;
4. Dayna Bochco;
5. Dr. William A. Burke;
6. Jana Zimmer;
7. Brian Brennan;
8. James Wickett;
9. Belinda Faustinos;
10. Dr. Clark E. Parker

California Coastal Commission

July 9, 2012

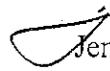
Page 2 of 2

11. Steve Kram; and
12. Bruce Reznik.

Thank you for your assistance.

Sincerely,

Signature on File

 Jennifer Pasquini, Legal Assistant to
Anthony P. Condotti, City Attorney,
City of Half Moon Bay



CITY OF HALF MOON BAY

Office of the City Attorney
PO BOX 481, Santa Cruz, CA 95061-0481
Telephone: (831) 423-8383
Fax: (831) 576-2269

VIA OVERNIGHT MAIL

CALIFORNIA COASTAL COMMISSION

Re: **Appeal No.: A-2-HMB-12-011**
Applicant: Gibraltar Capital
Appellants: Commissioners Brian Brennan and Steve Kinsey; John F. Lynch

Project Location: 320 Church Street in the City of Half Moon Bay, San Mateo County (APNs 056-150-010 and 056-150-120)

Project Description: Subdivision of two parcels, totaling 5.5 acres, into 12 residential lots and 1 remainder lot with associated infrastructural improvements, including utilities and construction of a private road.

Dear Chair Shallenberger and Commission Members:

This letter addresses the three grounds asserted by Coastal Commission Staff to support its recommendation that the Commission find substantial issue with regard to the above-referenced appeal. The recommended finding is based on staff's analysis of three separate issues: (1) impacts to sensitive habitat and riparian areas; (2) potential flooding impacts; and (3) cumulative impacts. All three of these issues were raised during the City's processing of this application, were thoroughly addressed in the environmental analysis prepared in connection with this project, and were considered by the City Council in approving it. On the other hand, the basis for Coastal Commission Staff's recommendation appears largely conclusory, and lacks meaningful or significant supporting evidence or analysis.

Biological Resources:

The Staff Report correctly notes that the City of Half Moon Bay's Certified Local Coastal Program requires a 50-foot buffer from the riparian corridors of perennial streams like Pilarcitos

Creek.¹ But it notes: “The City’s approval includes a minimal 50-foot buffer, when it appears that at least 100-feet is necessary to meet LCP policies, according to the Commission’s Senior Ecologist, Dr. John Dixon.” The staff report contains no meaningful explanation of why staff, or Dr. Lynch, believe that at least 100-feet is necessary *to meet LCP policies*, when the City’s certified Local Coastal Program/Land Use Plan clearly specifies 50-feet. Other than several pages reciting Half Moon Bay LCP/LUP Policies virtually verbatim, the sum of Dr. Lynch’s analysis is quoted below:

According to the Commission’s Senior Ecologist, Dr. John Dixon, the minimum buffer that should be applied in the area of Pilarcitos Creek is a minimum of 100 feet, due to the sensitive nature of the species and habitat present, and its riparian/wetland values.

In fact, prior to the circulation of the Initial Study/Mitigated Negative Declaration (IS/MND), the City commissioned a Biological Resources Assessment (BRA) of the project site in accordance with Half Moon Bay Municipal Code Section 18.38.035.² The January 2012 report by PMC includes a detailed analysis of potential impacts to coastal resources, including riparian corridors and sensitive species such as California red-legged frogs and San Francisco garter snakes, and detailed mitigation measures to prevent adverse impacts to those resources. In turn, all of the mitigation measures recommended by the PMC report were incorporated as mitigation measures in the (IS/MND) and included in the project conditions approved by the City Council.³ And while the recommended substantial issue finding apparently expresses Coastal Commission staff’s *preference* for a 100’ buffer, the notion that a 100’ buffer is somehow required by LCP Policies simply has no basis.⁴

Flood Hazards

The information contained in the staff report appears to ignore the thorough analysis of potential impacts due to tsunamis, flooding, or inundation associated with a dam failure contained in the Initial Study/Mitigated Negative Declaration (IS/MND). The IS/MND describes the project as having “no impact” with regard to flooding and potential impacts associated with tsunami events

¹ **Half Moon Bay Municipal Code Section 18.38.075.D; 18.38.085.D.**

² **See Staff Report, Appendix A: Substantive File Documents.**

³ **See Exhibit 1, attached hereto.**

⁴ **Unlike the fifty-foot buffer required for perennial streams and sensitive habitat areas under Sections 18.38.075.D and 18.38.085.D, Section 18.080.D states that the required buffer “surrounding lakes, ponds, and marshes shall be one hundred feet, measured from the high water point.” But as described in the PMC Report, Pilarcitos Creek clearly constitutes a perennial stream, and not a lake, pond or marsh.**

or dam failure as “less than significant.” With regard to flooding, the IS/MND notes that the project site is located in FEMA Zone C, which is an area of minimal flood hazard outside of the FEMA-designated 100-year or 500-year flood plain. With regard to potential dam failure, it notes that although the project site is within the inundation area for Pilarcitos Dam, the potential failure of Pilarcitos Dam is “not considered a reasonably foreseeable event.”⁵

Traffic Impacts

Finally, the staff report raises two issues with regard to the adequacy of the project’s analysis of potential traffic impacts.

First, the staff report relies on “*previous* traffic analysis” for the conclusion that “the *existing* level of service on Highways 1 and nearby Highway 92...is rated at level of service F at numerous bottleneck sections.” The staff report ignores the *current* traffic study showing significant improvements in levels of service in key intersections along both Highways 1 and 92, largely attributable to a number of improvement projects implemented by the City in recent years.⁶

Second, the staff report refers to “past cases” in which the Commission “has relied on off-site lot retirement to ensure that new subdivisions do not result in adverse traffic impacts,” and suggests that “it appears more likely than not that such subdivision will lead to traffic impacts of the sort that require mitigation, including potentially with respect to lot retirement.” The suggestion of a lot retirement requirement for this project was also made to the City Council, but was not included as a condition of approval.

⁵ The IS/MND notes, at p. 4.0-80: “According to the Association of Bay Area Government’s Dam Failure Inundation Map for Half Moon Bay, the project site is within the inundation area for Pilarcitos Dam (ABAG 1995). As such, implementation of the proposed project will place residential and retail commercial structures within the Pilarcitos Dam inundation area. No quantitative probability information exists for dam failure hazard in the Bay Area, including from the Pilarcitos Dam, in part because when a dam is known to have failure potential, the water level is reduced to allow for partial collapse without loss of water as required by the California Division of Safety of Dams and by safety protocols established by dam owners. In addition, dams under the jurisdiction of the California Division of Safety of Dams are annually inspected during their impoundment life to ensure they are performing and being maintained in a safe manner. The Division of Safety of Dams also periodically reviews the stability of dams and their major appurtenances in light of improved design approaches and requirements, as well as new findings regarding earthquake hazards and hydrologic estimates in California. Thus, failure of Pilarcitos Dam is not considered a reasonably foreseeable event.

⁶ See IS/MND Table 4.16-3 (page 4.0-104).

To date, the City has not acquired and retired development rights on any buildable parcels with funds paid as a result of such conditions being imposed on other projects. Before any such program can proceed, it will be necessary to carefully analyze potential impacts it may have on orderly development plans contemplated by the City's adopted LCP/LUP. In any event, conditions cited by the Commission as forming the basis for imposing such conditions on other, much larger, projects do not appear to be present here. In particular, the IS/MND carefully analyzes traffic impacts associated with the proposed project, and concludes that "based on City of Half Moon Bay standards, all of the study intersections would operate at acceptable LOS during both the AM and PM peak hours of traffic under cumulative plus project conditions." Based on the detailed analysis contained in the IS/MND, it does not appear that there is evidence in the record sufficient to provide a legal basis for imposition of a "lot retirement" program.

In this regard, in formulating conditions designed to mitigate impacts of a proposed project, such as "cumulative traffic impacts," the City is guided by the U.S. Supreme Court decisions in *Lucas*, *Nollan* and *Dolan*.⁷ Briefly summarized, the standards applicable to such conditions are as follows:

- There must be an "essential nexus" between the condition imposed and the impact it is designed to address. For instance, *Nollan* involved proposed development consisting of replacing an existing residence with another, larger, residence. *Nollan* challenged the validity of Coastal Commission-imposed condition requiring dedication of access along the beach across *Nollan's* property. The Coastal Commission had attempted to justify the condition based on the larger project blocking views of the ocean. While the Supreme Court recognized the value to the public of enhanced access along the beach, it found an inadequate nexus between the projects identified impacts (blocked views), and the condition imposed upon its approval. In other words, the condition (enhanced beach access) did not further the legitimate purpose (addressing blocked views) advanced as justification for the condition.
- The condition must be related, both in nature and extent, to the impact of the proposed development (i.e., it must be "roughly proportional"). The *Dolan* rough proportionality rule applies when a court is determining whether dedications demanded as a condition of development are proportional to the development's anticipated impacts. In that case, the Supreme Court invalidated a condition to a development project (enlarging the size of a plumbing and electrical store) requiring dedication of a 15' wide strip of land for use as a pedestrian/bike pathway. Although the Court recognized that enlargement of *Dolan's* store and parking lot may result in some increased traffic, it rejected the City's conclusory statement that the creation of the pathway "could offset some of the traffic demand ... and lessen increase in traffic congestion." Although no precise mathematical calculation

⁷ *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.

is required, under Dolan there must be some basis to conclude that the effect of the condition is "roughly proportional" to some impact anticipated as a result of the project.

In addition to the Nollan/Dolan nexus/rough-proportionality test, California courts have applied a heightened level of scrutiny to land use conditions, like the suggested cumulative traffic mitigation fee, that are imposed on an *ad hoc* basis, as opposed to fees adopted by ordinance that are formulated as part of a City's overall land use regulations. In this regard, the California Supreme Court in *Erlich v. City of Culver City* expressed concern that adjudicative, ad hoc development fees presented "an inherent and heightened risk that local government will manipulate the police power to impose conditions unrelated to legitimate regulatory ends..."⁸ The California Supreme Court in *Erlich* suggested that conditions such as the suggested cumulative traffic mitigation fee must be justified by "individualized findings to support the 'fit' between the [amount of the] monetary exaction" and the impact it is designed to address. Based upon the detailed analysis contained in the IS/MND, it does not appear that there is evidence in the administrative record sufficient to support the findings that would be necessary to impose such a condition on this project.

Thank you for your consideration of these important issues.

Sincerely,

Signature on File

ANTHONY P. CONDOTTI
City Attorney

Distribution: Coastal Commissioners and Alternates
North Central Coast District Office

⁸ *Erlich v. City of Culver City* (1996) 12 Cal.4th 854, at 869.

EXHIBIT 1

RESOLUTION NO. C-____-12

A RESOLUTION OF THE CITY OF HALF MOON BAY APPROVING A COASTAL DEVELOPMENT PERMIT, LOT LINE ADJUSTMENT, USE PERMIT AND TENTATIVE SUBDIVISION MAP FOR 12 RESIDENTIAL LOTS AND 1 REMAINDER LOT SUBDIVISION AND ASSOCIATED IMPROVEMENTS, INCLUDING UTILITIES, ON A 5.5-ACRE PROJECT SITE LOCATED IN THE C-D COMMERCIAL DOWNTOWN ZONING DISTRICT (ASSESSORS PARCEL NUMBER: 056-150-010/120)

WHEREAS, an application was submitted by Gibraltar Capital/Cameron Jeffs ("Applicant") to the City of Half Moon Bay ("City") requesting a Tentative Subdivision Project ("Project") to divide two parcels totaling 5.5 acres into twelve (12) residential lots ranging in size from 8,128 square feet to 17,860 square feet and one (1) commercial lot approximately 65,568 square feet 12 residential lots and one commercial lot with associated improvements, including utilities at 320 Church Street in a C-D (Commercial Downtown) Residential Zoning District; and

WHEREAS, to develop the Project, the Project applicant has requested a Tentative Subdivision Map, Lot Line Adjustment, Coastal Development Permit, and Use Permit allowing for a maximum future development of ten (10) single-family dwelling units and ten (10) multi-family units and one (1) 10,000 square foot retail/commercial building west of Church Street in the (Commercial Downtown Zoning District) ("C-D"); and

WHEREAS, the Project was determined to be subject to CEQA and an Initial Study/Mitigated Negative Declaration (IS/MND) State Clearinghouse No. 2012032035 was prepared, the MND was circulated for a public review between March 15, 2012 to April 13, 2012 in accordance with Section 21091 of the Public Resources Code; and

WHEREAS, City prepared written responses to environmental issues raised by the MND included and responded to in the Final Mitigated Negative Declaration (FMND) as appropriate; and

WHEREAS, the mitigation measures identified in the FMND, agreed to by the applicant, placed as conditions on the project, and identified as part of this public hearing, have been incorporated into the Mitigation Monitoring Reporting Program in conformance with California Public Resources Code Section 21081.6; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the matter on April 24, 2012, at which time all those desiring to be heard on the matter were given an opportunity to be heard and all written and oral testimony presented for their consideration regarding the review of the environmental documents was presented to them; and

WHEREAS, the Planning Commission has determined that the commercial component of the project is not physically suitable for the type and density of development because there is no evidence that sufficient access can be provided to the lot. Additionally, the contemplated second driveway between the existing shopping center access way and the proximity of the riparian corridor to the north is infeasible and the stand of 19 Cypress trees border the south edge of the property creates insufficient access to the commercial lot; and

WHEREAS, the Planning Commission recommended approval of the of the requested Tentative Subdivision Map, Coastal Development Permit, Lot Line Adjustment and Use Permit to divide two parcels totaling 5.5 acres into 12 residential lots and one remainder lot with

10.8

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associated improvements, including utilities at 320 Church Street in a C-D (Commercial Downtown) Residential Zoning District; and

WHEREAS, the Planning Commission made the required findings for approval of the project, as set forth in Exhibit A and subject to the Conditions of Approval contained in Exhibit B in Resolution P-07-12; and

WHEREAS, the Planning Commission recommends to the City Council, adoption of the FMND pursuant to Section 15074(b) of the California Environmental Quality Act (CEQA) Guidelines and that it shall adopt the proposed FMND only if it finds on the basis of the whole record, including Initial Study and public comments, before it that there is no substantial evidence that the project will have a significant effect on the environment and that the FMND reflects the independent judgment and analysis of the City of Half Moon Bay; and

WHEREAS, the Coastal Development Permit has been reviewed in accordance with Chapter 18.20 of the Municipal Code, which defines development, in part, as a change in the density and intensity of use of land, including, but not limited to subdivision pursuant to the Subdivision Map Act (commencing with 66410 of the Government Code); and

WHEREAS, documents and other material constituting the record of the proceedings upon which the City's decision and its findings are based are located at the City of Half Moon Bay Planning Department, located at 501 Main Street, in Half Moon Bay; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay, adopts the Final Mitigated Negative Declaration (SCH No. 2012032035) and Mitigation Monitoring and Reporting Program for PDP-005-11, an application for a Coastal Development Permit, Lot Line Adjustment, Use Permit and Tentative Subdivision Map for the construction of twelve (12) residential lots and one (1) remainder lot subdivision and associated improvements, including utilities, on a 5.5 acre project site located at 320 Church Street in the C-D (Commercial Downtown) zoning district (Assessor's Parcel Number: 056-150-010/120), as stated in this Resolution. The documents that constitute the record of proceedings on which the Planning Commission and City Council's findings are based are located with the Planning Department of the City of Half Moon Bay, 501 Main Street, Half Moon Bay, CA 94109. This information is provided in compliance with Public Resources Code Section 21081.6 and Title 14 of the California Code of Regulations.

* * * * *

I, the undersigned, hereby certify that the forgoing Resolution was duly passed and adopted on the 5th day of June, 2012 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers: _____
NOES, Councilmembers: _____
ABSENT, Councilmembers: _____
ABSTAIN, Councilmembers: _____

ATTEST:

Siobhan Smith, City Clerk

Alan Alifano, Mayor

10-9

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F18a

From: Cameron Jeffs [mailto:Cameron@baileycreek.net]
Sent: Thursday, July 05, 2012 3:33 PM
To: ssmith@hmbcity.com
Cc: Tonya Ward; Geisler, Karen@Coastal; David Byers; patw@hmbcity.com; lsnideman@hmbcity.com:
Subject: RE: Letter to the Coastal Commission regarding 320 Church Street

Siobhan,
Good Afternoon!

I was instructed by the city officials to forward the attached letter to the Coastal Commission for immediate circulation to all City Council Members and the Chair of the Planning Commission.

Please confirm the attached document has been sent at your earliest convenience.

All the best,

--
Cameron Jeffs, CCIM Designee
Real Estate Broker #01446257
413 Main Street Suite A
Half Moon Bay, CA. 94019
Direct 415-990-5934
Office 650-726-0135
EFax 650-560-6132
cameron@baileycreek.net

July 5, 2012

To: California Coastal Commission

Subject: California Coastal Commission Staff Report
320 Church Street, Half Moon Bay, San Mateo County
Substantial Issue
A-2-HMB-12-011

On review of the above noted California Coastal Commission's (CCC's) Staff Report, and already sent to you, we were disturbed to discover that important material submitted by the City of Half Moon Bay ("HMB") to the CCC was not included. The absence of this material may prejudice the decision of the CCC; it should have been sent to you and we are sending it to you now. To allow time for your proper review, we request that the hearing of our project, scheduled for 7/13/12, be held over to the next meeting in August.

The information that was not included is enclosed and consists of:

- a) An e-mail from Karen Geisler (CCC Staff) to the HMB Planning Director dated 4/24/12.
- b) A letter from James Benjamin, also dated 4/24/12, to the HMB Planning Director.
- c) The Supplemental Report of the HMB Planning Director, Pat Webb, to the HMB City Council for their 6/5/12 meeting, which answered both Mr. Benjamin's and Ms. Geisler's objections in detail.

We enclose also our e-mail (sent 6/28/12) to Karen Geisler which was included in the CCC staff report, for reference.

Mr. Benjamin solicited the support of Ms. Geisler just in time for the HMB Planning Commission meeting of 4/24/12, where Mr. Benjamin was the only speaker in opposition to our project. Nonetheless our project was found to be totally consistent with the City's LCP and was approved unanimously at that meeting and at the City Council meeting of 6/5/12.

Was this proper behavior by Ms. Geisler, to interject herself into our City approval process based only on the predictably biased information provided by Mr. Benjamin?

Pat Webb's report (c) enclosed) speaks for itself and is exemplary in its thoroughness. Both Mr. Benjamin and Ms. Geisler are answered point-by-point. If one accepts the substantiated facts of Ms. Webb, one must conclude that no "Substantial Issue" exists with our project.

Mr. Benjamin chose not to lead the appeal against our project to the CCC but passed the task on to a colleague, John Lynch. Mr. Lynch's objections reflect those of Mr. Benjamin, although the issue of traffic is also raised. Traffic is of course addressed in our submissions. Our required traffic study confirms there would be negligible traffic impact. Ours is a small in-fill project in the center of town within a 15 minute walk of the beach. Access to beaches from Highways One and 92 is not impeded.

Mr. Benjamin and Mr. Lynch are perennial opponents of all new housing in HMB. That is their right. They have been very successful. Hardly any new building has taken place in HMB for ten years. In the last census the population of HMB actually shows a decline over that period. Very few are aware of this.

Although we know that our City's poor economic condition may carry no great weight in a CCC decision, it is a fact that HMB's financial health suffered grievously from an over-zealous hostility to "growth". The disastrous "Beachwood" judgment against the City was one result. The current Council has a

different complexion and supports particularly in-fill housing downtown to help sustain commerce in our weakened town center; hence their 100% support of this project, which should not be ignored.

We hope that the CCC will give some support to HMB, not just for this project but for others that come along. We both live and work in the town. We urge the commissioners to read the additional, very relevant information enclosed. We hope and expect that you will conclude that no "Substantial Issue" exists, and that HMB is capable of properly administering this project without taking up any more time of the CCC and its staff.

Signature on File

Robin E. Jeffs

Signature on File

Cameron Jeffs

Cc: HMB Mayor and City Council
HMB Planning Director
Chair, HMB Planning Commission
Karen Geisler
David Byers, Esq.
Office of Supervisor Don Horsley

Subject: FW: Comments on 320 Church St
Date: Tuesday, April 24, 2012 4:29:35 PM Pacific Daylight Time
From: Tonya Ward
To: Cameron Jeffs

FYI

From: Geisler, Karen@Coastal [mailto:Karen.Geisler@coastal.ca.gov]
Sent: Tuesday, April 24, 2012 4:21 PM
To: Tonya Ward
Subject: Comments on 320 Church St

Hello Tonya:

I'm finally getting back to you with some more detailed comments regarding 320 Church Street.

Pilarcitos Creek, the adjacent riparian corridor and associated sensitive species (steelhead, Ca red-legged frog, and SF garter snake, especially) are the big concerns. According to the bio report, "The riparian area and corridor of Pilarcitos Creek, as well as the riparian buffer zone extending fifty feet outward from the limit of riparian vegetation, are both protected as sensitive habitats by the City's Local Coastal Program Land Use Plan and Coastal Resource Conservation Standards (Municipal Code Chapter 18.38."

Given that the frogs and snakes utilize upland habitats as well as wet areas, 50 ft is a very minimal buffer. 100 feet would be much better. Wetlands are given 100-foot buffers and there may be wetlands associated with Pilarcitos Creek. A wetland delineation should be conducted and a protocol red-legged frog breeding survey should be completed soon. The LCP allows a 20-foot setback from the riparian vegetation to a new structure on legal lots only if no feasible alternative exists. If this parcel is subdivided, the possibility of development encroaching closer to the habitat increases, since this determination will be made for each new parcel. The LCP also says that development must be sited so that it won't impact ESHA – if the specified 50-foot buffer is too narrow to prevent impacts, then we would recommend there be a larger buffer of 100 feet.

The Municipal Code states that, "The minimum buffer surrounding a habitat of a rare or endangered species shall be fifty feet." This suggests that wider buffers may be required. The riparian corridor is habitat for red-legged frogs and garter snakes, both listed species. Therefore I think a 100ft buffer is best to recommend in this case.

In areas of flooding due to tsunami or dam failure, the hazard zone is 100 feet on both sides of the creek and no new development may take place within the zone unless the risk is eliminated by improvements. The property is between 40 & 60 ft above mean sea level and about .6 mile from the ocean, but this could also be a potential issue.

Hope these comments are helpful. Please let me know if you have any questions.

Thanks.
Best
~Karen

Karen J Geisler, Coastal Program Analyst
California Coastal Commission, Central Coast District
725 Front Street, Suite 300, Santa Cruz, CA 95060
Phone: (831) 427 4863 Fax: (831) 427 4877
Karen.Geisler@coastal.ca.gov

www.coastal.ca.gov ><(((^>.....<(((^>

><(((^>.....<(((^>

Ms. Tonya Ward, A.I.C.P.
Planning Department
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

PLANNING DEPT

APR 24 2012

RECEIVED

24 April 2012

Dear Ms. Ward:

Thank you for taking time earlier today to discuss my concerns about the referenced project. You requested that I summarize my concerns in a letter, to wit:

1. The project appears to be within the limit of inundation shown on the *Inundation Map of Pilarcitos Dam* prepared by the San Francisco Water Department. The Office of Emergency Services has indicated that development within this area is at risk of inundation in the event of dam failure.

Half Moon Bay LCP Policy 4-7 states

In areas of flooding due to tsunamis or dam failure, no new development shall be permitted unless the applicant or subsequent study demonstrates that the hazard no longer exists or has been reduced or eliminated by improvements which are consistent with the policies of this Plan and that the development will not contribute to flood hazards or require the expenditure of public funds for flood control works. Where not otherwise indicated, the flood hazard zone shall be considered to be a zone defined by the measured distance of 100 feet from the centerline of the creek to both sides of the creek. Non-structural agricultural uses, trails, roads, and parking lots shall be permitted, provided that such uses shall not be permitted within the area of stream corridor. (See Policies in Section 3 on Protection of Sensitive Habitats.)

While we were discussing this matter in your office, we viewed a large map which the City of Half Moon Bay hired a GIS consult to prepare. The GIS consultant's map seemed to represent the borders of the dam inundation area by wide blue areas. Moreover, to my knowledge, this map has not been considered or adopted as a legal instrument. The border is far narrower on the official map recognized by OES. I am not aware of any update to this map by the San Francisco Water District, the dam's operator, nor of any measures taken that would have altered the dam inundation zone. Therefore, the findings of consistency with LCP Policy 4-7 cannot be made.

Please include a map which locates the proposed development with respect to the OES map, and require the applicant to relocate any at-risk development outside of the dam inundation zone.

2. The location of the proposed homes may also be within the area identified in the City's 1975 Storm Drainage report as vulnerable to Pilarcitos Creek Flooding, thereby creating a hazard of flooding for the subject residences.

LCP Policy 4-8 states

No new permitted development shall cause or contribute to flood hazards.

Please include a map which locates the proposed development with respect to the 1975 Storm Drainage Report's Inundation areas, and require the applicant to relocate any at-risk development outside of the Pilarcitos Creek Inundation zone.

3. The Safety Element of the City's general plan also imposes requirements on development in areas subject to dam inundation and flood hazards. If the project is revised, please ensure that there is evidence to support findings of consistency with these policies.
4. The subdivision creates new buildable lots without retiring an equal number of lots, as required by Coastal Commission for new subdivisions for some years now. You recalled in our conversation that such retirements were required of Carnoustie. The lack of such lot retirements was also raised as an issue by Coastal Commissioners in their appeal of a City-approved subdivision near the Pullman watercourse.
5. The land on the south side of Pilarcitos Creek near Church Street west to Highway 1 was subject to a restoration project in the nineties to compensate for the illegal removal of riparian vegetation from Pilarcitos Creek by Wolverine Development. The terms of the restoration project included setback restrictions. Please confirm that the proposed development is consistent with the terms under which that riparian corridor violation was resolved.
6. The subdivision appears to indicate that a few of created lots would not be buildable without invoking LCP policy exceptions that reduce the required setback for riparian areas to 20 feet.

LCP Policy 3.3 states

- (a) (The City will) Prohibit any land use and/or development which would have significant adverse impacts on sensitive habitat areas.
- (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity or such areas.

LCP Policy 3-5(a) further states

(5) [N]o new parcels shall be created whose only building site is in the buffer area except for parcels created in compliance with policies 3-3, 3-4 and 3-5 if consistent with existing development in the area and if building sites are set back 20 feet from the bank edge of a perennial and 20 feet from the midpoint of an intermittent stream.

No development in this area within several hundred feet presently involves development in the buffer zone, and the US Fish and Wildlife Service and Department of Fish and Game have not commented on consistency with their regulations pursuant to policy 3-4, so there is not currently evidence to support findings of consistency with Policy 3-5(a). Please require the applicant to revise the subdivision so that no lots require encroachment on Pilarcitos Creek's riparian buffer zone, and ensure that conditions are identified to protect sensitive species to the satisfaction of the USFWS and CDFG. This is particularly important if the subdivision's CEQA document will also serve as the CEQA document for the development of individual residences in this subdivision.

7. Unless the residences are either already outside or are subsequently relocated outside of these hazard areas, the risk to human health should be identified in the CEQA as a significant unmitigated impact, which triggers a mandatory finding of significance, making the project ineligible for a mitigated negative declaration. Similarly, an adverse impact to the habitat of a listed species also triggers a mandatory finding of significance. If such impacts cannot be avoided by revision of the subdivision, please initiate the preparation of an Environmental Impact Report for this project.

If you have any questions or would like to discuss the concerns raised in this letter, I would be happy to do so. I am a supporter of infill development, I appreciate the work that went into this version of the IS/MND, and I thank you for the opportunity to comment on it.

Respectfully,

Signature on File

James Benjamin

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

**AGENDA REPORT
SUPPLEMENTAL REPORT**

For meeting of: June 5, 2012

TO: Honorable Mayor and City Council
VIA: Laura Snideman, City Manager
FROM: Pat Webb, Interim Planning Director
TITLE: CONDUCT A PUBLIC HEARING AND ADOPT A RESOLUTION APPROVING A COASTAL DEVELOPMENT PERMIT, LOT LINE ADJUSTMENT, USE PERMIT, AND TENTATIVE SUBDIVISION MAP TO DIVIDE TWO PARCELS INTO 12 RESIDENTIAL LOTS AND 1 REMAINDER LOT AND ASSOCIATED IMPROVEMENTS (ASSESSORS PARCEL NUMBERS 056-150-010/120)

RECOMMENDATION:

Receive supplemental information concerning public comments received on proposed project and staff responses.

DISCUSSION:

The staff report for the above-referenced item refers to two letters received after the close of the public comment period on the draft Initial Study/Mitigated Negative Declaration. After the agenda packet was distributed it came to staff's attention that that additional information on the comments received may be requested, and is presented below:

April 24, 2012 email message from Coastal Commission Program Analyst Karen Geisler:

Comment CC-1:

Pilarcitos Creek, the adjacent riparian corridor and associated sensitive species (steelhead, Ca red-legged frog, and SF garter snake, especially) are the big concerns. According to the bio report, "The riparian area and corridor of Pilarcitos Creek, as well as the riparian buffer zone extending fifty feet outward from the limit of riparian vegetation, are both protected as sensitive habitats by the City's Local Coastal Program Land Use Plan and Coastal Resource Conservation Standards (Municipal Code Chapter 18.38."

Given that the frogs and snakes utilize upland habitats as well as wet areas, 50 ft is a very minimal buffer. 100 feet would be much better. Wetlands are given 100-foot buffers and there may be wetlands associated with Pilarcitos Creek. A wetland delineation should be conducted and a protocol red-legged frog breeding survey should be

completed soon. The LCP allows a 20-foot setback from the riparian vegetation to a new structures on legal lots only if no feasible alternative exists. If this parcel is subdivided, the possibility of development encroaching closer to the habitat increases, since this determination will be made for each new parcel. The LCP also says that development must be sited so that it won't impact ESHA – if the specified 50-foot buffer is too narrow to prevent impacts, then we would recommend there be a larger buffer of 100 feet.

The Municipal Code states that, "The minimum buffer surrounding a habitat of a rare or endangered species shall be fifty feet." This suggests that wider buffers may be required. The riparian corridor is habitat for red-legged frogs and garter snakes, both listed species. Therefore I think a 100ft buffer is best to recommend in this case.

Staff Response:

Prior to the circulation of the Initial Study/Mitigated Negative Declaration (IS/MND), the City commissioned a Biological Resources Assessment (BRA) of the project site in accordance with Half Moon Bay Municipal Code Section 18.38.035. The January 2012 report, by the PMC consulting firm, includes a detailed analysis of potential impacts to coastal resources, including riparian corridors and sensitive species such as California red-legged frogs and San Francisco garter snakes, and detailed mitigation measures to prevent adverse impacts to those resources.¹ In turn, all of the mitigation measures recommended by the PMC report were incorporated as mitigation measures in the (IS/MND) and included in the project conditions approved by the Planning Commission.² And while the comment above expresses Coastal Commission staff's preference for a 100' buffer, in staff's view the mitigation measures adequately address the expressed concerns about potential impacts to coastal resources.

Comment CC-2:

In areas of flooding due to tsunami or dam failure, the hazard zone is 100 feet on both sides of the creek and no new development may take place within the zone unless the risk is eliminated by improvements. The property is between 40 & 60 ft above mean sea level and about .6 mile from the ocean, but this could also be a potential issue.

Staff Response:

The IS/MND addresses potential impacts associated with flooding, dam failure or tsunami events. It describes the project as having "no impact" with regard to flooding and potential impacts associated with tsunami events or dam failure as "less than significant." With regard to flooding, the IS/MND notes that the project site is located in FEMA Zone C, which is an area of minimal flood hazard outside of the FEMA-designated 100-year or 500-year flood plain. With regard to potential dam failure, it notes that although the project site is within the inundation area for Pilarcitos Dam, the potential failure of Pilarcitos Dam is "not considered a reasonably foreseeable event."³

¹ January 2012 PMC Report, pp. 34-45.

² See MM 4.4.a-1a – MM 4.4.a-7.

³ The IS/MND notes, at p. 4.0-80: "According to the Association of Bay Area Government's Dam Failure Inundation Map for Half Moon Bay, the project site is within the inundation area for Pilarcitos Dam (ABAG 1995). As such, implementation of the proposed project will place residential and retail commercial structures within the Pilarcitos Dam inundation area. No quantitative probability information exists for dam failure hazard in the Bay Area, including from the Pilarcitos Dam, in part because when a dam is known to

Letter dated April 24, 2012 from James Benjamin:⁴

Comment JB-1:

The project appears to be within the limit of inundation shown on the Inundation Map of Pilarcitos Dam prepared by the San Francisco Water Department. The Office of Emergency Services has indicated that development within this area is at risk of inundation in the event of dam failure.

Staff Response:

See response to Comment CC-1, above.

Comment JB-2:

The location of the proposed homes may also be within the area identified in the City's 1975 Storm Drainage report as vulnerable to Pilarcitos Creek Flooding, thereby creating a hazard of flooding for the subject residences.

Staff Response:

See response to Comment CC-1, above.

Comment JB-3:

The Safety Element of the City's general plan also imposes requirements on development in areas subject to dam inundation and flood hazards. If the project is revised, please ensure that there is evidence to support findings of consistency with these policies.

Staff Response:

See response to Comment CC-1, above.

have failure potential, the water level is reduced to allow for partial collapse without loss of water as required by the California Division of Safety of Dams and by safety protocols established by dam owners. In addition, dams under the jurisdiction of the California Division of Safety of Dams are annually inspected during their impoundment life to ensure they are performing and being maintained in a safe manner. The Division of Safety of Dams also periodically reviews the stability of dams and their major appurtenances in light of improved design approaches and requirements, as well as new findings regarding earthquake hazards and hydrologic estimates in California. Thus, failure of Pilarcitos Dam is not considered a reasonably foreseeable event.

⁴ The full text of the April 24, 2012 letter, including excerpts of various LCP/LUP policies/requirements, is included in Attachment 3 to the original staff report.

Comment JB-4:

The subdivision creates new buildable lots without retiring an equal number of lots, as required by Coastal Commission for new subdivisions for some years now. You recalled in our conversation that such retirements were required of Carnoustie. The lack of such lot retirements was also raised as an issue by Coastal Commissioners in their appeal of a City-approved subdivision near the Pullman watercourse.

Staff Response:

This comment correctly notes that previous projects approved by the Coastal Commission have included lot retirement conditions. For example, the Pacific Ridge project included "Special Condition 7" requiring the applicant to pay \$45,000 per lot for each of the 63 parcels on which homes will be built, to be used by the City for the purposes of acquiring and retiring development rights on existing legal parcels in the City. The fee is intended to mitigate potential "cumulative traffic impacts" the Coastal Commission found of concern with respect to that project.

To date, the City has not acquired and retired development rights on any buildable parcels with funds paid as a result of such conditions. Before any such program can proceed, it will be necessary to carefully analyze potential impacts it may have on orderly development plans contemplated by the City's adopted LCP/LUP. In any event, conditions cited by the Coastal Commission as forming the basis for imposing such conditions do not appear to be present here. In particular, the IS/MND carefully analyzes traffic impacts associated with the proposed project, and concludes that "based on City of Half Moon Bay standards, all of the study intersections would operate at acceptable LOS during both the AM and PM peak hours of traffic under cumulative plus project conditions." Based on the detailed analysis contained in the IS/MND, it does not appear that there is evidence in the record sufficient to provide a legal basis for imposition of a "lot retirement" program.

In this regard, in formulating conditions designed to mitigate impacts of a proposed project, such as "cumulative traffic impacts," the City is guided by the U.S. Supreme Court decisions in *Lucas*, *Nollan* and *Dolan*.⁶ Briefly summarized, the standards applicable to such conditions are as follows:

- There must be an "essential nexus" between the condition imposed and the impact it is designed to address. For instance, *Nollan* involved proposed development consisting of replacing an existing residence with another, larger, residence. *Nollan* challenged the validity of Coastal Commission-imposed condition requiring dedication of access along the beach across *Nollan's* property. The Coastal Commission had attempted to justify the condition based on the larger project blocking views of the ocean. While the Supreme Court recognized the value to the public of enhanced access along the beach, it found an inadequate nexus between the projects identified impacts (blocked views), and the condition imposed upon its approval. In other words, the condition (enhanced beach access) did not further the legitimate purpose (addressing blocked views) advanced as justification for the condition.

⁶ *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.

- The condition must be related, both in nature and extent, to the impact of the proposed development (i.e., it must be "roughly proportional"). The Dolan rough proportionality rule applies when a court is determining whether dedications demanded as a condition of development are proportional to the development's anticipated impacts. In that case, the Supreme Court invalidated a condition to a development project (enlarging the size of a plumbing and electrical store) requiring dedication of a 15' wide strip of land for use as a pedestrian/bike pathway. Although the Court recognized that enlargement of Dolan's store and parking lot may result in some increased traffic, it rejected the City's conclusory statement that the creation of the pathway "could offset some of the traffic demand and lessen increase in traffic congestion." Although no precise mathematical calculation is required, under Dolan there must be some basis to conclude that the effect of the condition is "roughly proportional" to some impact anticipated as a result of the project.

In addition to the Nollan/Dolan nexus/rough-proportionality test, California courts have applied a heightened level of scrutiny to land use conditions, like the suggested cumulative traffic mitigation fee, that are imposed on an *ad hoc* basis, as opposed to fees adopted by ordinance that are formulated as part of a City's overall land use regulations. In this regard, the California Supreme Court in *Erlich v. City of Culver City* expressed concern that adjudicative, ad hoc development fees presented "an inherent and heightened risk that local government will manipulate the police power to impose conditions unrelated to legitimate regulatory ends"⁶ The California Supreme Court in *Erlich* suggested that conditions such as the suggested cumulative traffic mitigation fee must be justified by "individualized findings to support the 'fit' between the [amount of the] monetary exaction" and the impact it is designed to address. Based upon the detailed analysis contained in the IS/MND, it does not appear that there is evidence in the administrative record sufficient to support the findings that would be necessary to impose such a condition on this project.

Comment JB-5:

The land on the south side of Pilarcitos Creek near Church Street west to Highway 1 was subject to a restoration project in the nineties to compensate for the illegal removal of riparian vegetation from Pilarcitos Creek by Wolverine Development. The terms of the restoration project required setback restrictions. Please confirm that the proposed development is consistent with the terms under which that riparian corridor violation was resolved.

Staff Response:

Although it is unclear how this comment has any bearing on this proposed project, IS/MND includes Mitigation Measure MM 4.4a-2b, which states: "All future development on the project site shall be sited outside of the Pilarcitos Creek riparian corridor and riparian buffer zone."

⁶ *Erlich v. City of Culver City* (1996) 12 Cal.4th 854, at 869.

Comment JB-6:

The subdivision appears to indicate that a few of created lots would not be buildable without invoking LCP policy exceptions that reduce the required setback for riparian areas to 20 feet.

Staff Response:

This comment appears to address the proposed commercial development at the west end of the subject property, which was not approved by the Planning Commission.

Comment JB-7:

Unless the residences are either already outside or are subsequently relocated outside of these hazard areas, the risk to human health should be identified in the CEQA [sic] as a significant unmitigated impact, which triggers a mandatory finding of significance, making the project ineligible for a mitigated negative declaration. Similarly, an adverse impact to the habitat of a listed species also triggers a mandatory finding of significance. If such impacts cannot be avoided by revision of the subdivision, please initiate the preparation of an Environmental Impact Report for this project.

Staff Response:

As noted in detail in the IS/MND and the supporting biological study, all potential impacts associated with flood hazards are considered less than significant. Therefore the "risk to human health" associated with this proposed project appears to be based wholly on speculation and lacks any supporting evidence. Similarly, the IS/MND includes conditions designed to ensure that no development occurs within the riparian buffer zone, and that mitigation measures to reduce potential impacts to sensitive plant or animal species to less than significance, and no substantial evidence has been offered to suggest otherwise.

CONCLUSION.

Based on the foregoing, the recommendation contained in the original staff report continues to apply. Of course, staff will continue to analyze and attempt to address any additional comments received before or at the public hearing on this item.

6 ASHDOWN PLACE

HALF MOON BAY CA 94019

650/712-8591 rjeffs@comcast.net

Karen Geisler

Coastal Program Analyst, California Coastal Commission

Via e-mail to Karen Geisler@coastal.ca.gov

on 6/28/12

Dear Karen,

Project: 320 Church Street, Half Moon Bay, CA 94019

I am Chairman of Gibraltar Capital Inc., the father of Cameron Jeffs with whom you have been discussing our project. I thought it might be helpful to lay out briefly some background and history.

I founded Gibraltar in 1980 as a small family-owned property development company to be active primarily in the south San Francisco Bay Area. We began single family construction in Half Moon Bay in 1988, and subsequently acquired commercial and investment property. The company and I moved to Half Moon Bay in 1996. We have built and sold 13 new homes in Half Moon Bay since 1988. Cameron joined the company about seven years ago when we purchased three small single family lots on Church Street, Half Moon Bay. We built two homes on the three lots, sacrificing one lot to allow sufficient 50 feet setback from the Pilarcitos Creek riparian corridor. My son and his family moved into one of the two houses overlooking the site.

Obtaining approval for these two houses was difficult, expensive and time-consuming. We had to complete the unfinished cul de sac, install storm drains, sidewalks, new pipe for increased fire hydrant capacity, and extend the sewer. We also had to meet all the environmental constraints, as well as respond to the objections of the same Jimmy Benjamin who is leading the appeal of this project.

About three years ago the adjacent five acre property to the west, 320 Church Street, formerly a farm, was in foreclosure. In that we had already invested a considerable amount in the street infrastructure, biological studies, etc., we decided to buy this property and design a project that would fully comply with the City's Local Coastal Program (LCP), with which by now we were very familiar.

The five acre parcel is almost a dump site. It is unfenced and is now used primarily as a dogs' bathroom. To the south is a run-down shopping/office center, the police station and the Catholic Church. We see tenants from the shopping center depositing their garbage on the site and in the creek. The underside of the Highway One bridge is used regularly as an overnight shelter by the homeless with easy access to the surplus food thrown out by the nearby Safeway across Highway One to the west. This property is not a pristine wildlife haven. It is right in the middle of town and any wildlife must have trouble surviving there.

We believe that our project would in fact enhance the creekside environment for any wildlife by providing a large protected setback. Apart from this it would greatly improve a run-down neighborhood and provide downtown housing, preferable to urban sprawl. As was brought up at our hearing before our Planning Commission, an increasing number of people want to live downtown so that they can reduce the need to drive.

So we have a small in-fill project of a type that the city and most townsfolk support, unanimously approved by the Planning Commission and the City Council. The same opposing arguments were advanced then as are advanced now in the appeal to the Coastal Commission. The project meets the onerous conditions imposed by the City's LCP in every respect. All the required responsible agencies were provided the statutory time to comment. So why this appeal?

Just about every new residential building project proposed in Half Moon Bay over the past 15 years of my experience has been appealed to the Coastal Commission. The small but active group behind these appeals has had great success; no significant new project has been started in Half Moon Bay during this period. An ordinance limiting residential growth to 1% per year with no carry-over was passed about 12 years ago. It was unnecessary. Over the past dozen years even this low target was not met in any year. In fact, the last census showed that the town's population had actually fallen from the total in the previous census 10 years ago. Few are aware of this.

Unfortunately the proponents of limited growth in Half Moon Bay went too far. Emboldened by control of the City Council and the Planning Commission, actions were taken against the developer of a project known as Beachwood that led the developer to win a \$40 million judgment against the City in 2007, subsequently reduced to \$18 million. Although the City was able to float a bond to pay the debt, it almost went bankrupt and is now only just managing to scrape by. Vacancies in the business district continue to increase and the infrastructure is steadily deteriorating. The town has many needs but is suffering a slow commercial decline.

Our project is the first of its type to come along for years. Most see it as a long-awaited boost to our downtown. But it is far easier to stop a project than to create one in Half Moon Bay. The same group that has caused so much grief is at it again, despite their history and current lack of community support.

We are aware that the main architect of the appeal of our project is Jimmy Benjamin, a former Half Moon Bay Planning Commissioner. Mr. Benjamin is currently in litigation with the City of Half Moon Bay. As mentioned, he objected to our first project on Church Street. We believe Mr. Benjamin is familiar to the Coastal Commission. While Mr. Benjamin is articulate and knowledgeable, we believe he is selective and wrong in his code interpretations. He has a record of opposing most residential development in Half Moon Bay. He lives further down Pilarcitos Creek, very near the ocean. His house is closer to the creek and more vulnerable to flooding than our project would ever be. We met recently with Mr. Benjamin to discuss his objections but unfortunately found little common ground.

We sincerely hope that the Coastal Commission will see that our project is carefully and thoughtfully planned, raises no "substantial issue", and fully meets the conditions of our LCP. We also hope that the Commission will take into account that this is a downtown project surrounded by highways and other development. We are aware that the Commission has limited resources and hope that it will see that this project can and should be left to the local authority to monitor and supervise. Since the Beachwood debacle, the City of Half Moon Bay takes its responsibilities very seriously.

I look forward to meeting you and discussing our project further.

Yours sincerely,

Robin Jeffs

F19a

July 10, 2012

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: CDP Application No. 2-11-024 (City of Daly City) Additional Coastal Armoring at Mussel Rock Landfill

The Surfrider Foundation respectfully urges the California Coastal Commission to deny approval of the City of Daly City's Application No. 2-11-024

This project seeks to justify and build upon the Daly City Department of Public Works' strategy of using rock revetments for erosion control at Mussel Rock. By maintaining a policy of armoring the public will remain deprived of this stretch of beach including lateral access and its native aesthetics. Sediment transport processes will continue to be altered as will natural ecosystems. Garbage from the landfill will continue to be located in a hazardous area prone to beach and bluff erosion as well as seismic activity. In short, the challenges at Mussel Rock will remain unaddressed and postponed once again.

The primary reason for granting this permit is to prevent a scenario in which waste from the landfill enters the ocean. However, by supporting the continual location of a landfill in this area, the threat to water quality remains – and this is a substantial issue. History has shown that revetments and other hard coastal armoring structures are commonly prone to failure (In fact, this permit is being sought due to the failure of the armor that is already at the site). The coastline at Mussel Rock is in a high energy environment. At any time the right winter storm can undo any of the protection the new armor may afford.

The only responsible policy for Mussel Rock is a strategy of landfill relocation. Unfortunately, the Commission's staff report has agreed with Daly City's contention that the cost of a relocation strategy is prohibitively expensive. According to the report, cost was cited twice before as a reason to not relocate this landfill (1977 and 1999). Presently, an estimate of \$125 million dollars is given for removing the whole site, but that figure is derived from the 1999 estimate of \$90 million, not a recent formal comprehensive study. While relocating the entire landfill would be costly, a strategy of gradual relocation could be a more feasible approach. We believe there should be a thorough study of this alternative.

In summary, by approving this permit as it is currently written, the status quo at Mussel Rock remains. A truly sustainable solution like managed retreat is not considered. An incredibly beautiful stretch of beach remains submerged. Ecosystems and natural processes continue to be altered, and waste from this site will remain a threat to near shore water quality.

For these reasons, we respectfully urge the Commission to Deny the City and County of San Francisco's Application No. 2-11-024.

Bill McLaughlin
Surfrider Foundation, San Francisco Chapter
Erosion Committee Project Manager
415-225-4083
<http://www.sloaterosionob.blogspot.com>