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**IMPORTANT NOTE:** The Commission will not take public testimony during this phase of the appeal hearing unless at least three commissioners request it. If the Commission finds that the appeal raises a substantial issue, it will schedule the de novo phase of the hearing for a future meeting, during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

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## APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION

**Appeal No.:** A-2-HMB-12-033

**Applicant:** Gibraltar Capital

**Appellants:** Commissioners Brian Brennan and Steve Kinsey;  
John F. Lynch

**Local Government:** City of Half Moon Bay

**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.

**Staff Recommendation:** Substantial Issue Exists

## **SUMMARY OF STAFF RECOMMENDATION**

The City of Half Moon Bay approved a coastal development permit (CDP) for a subdivision of a 5.5 acre lot into 12 residential lots and 1 remainder lot with associated improvements, including utilities and construction of a private road. The Appellants contend that the approved development is inconsistent with the City's LCP, including policies related to biological resources, hazards and public services, including traffic capacity.

With regard to biological resources, Pilarcitos Creek has previously been called out as an important habitat resource, including in relation to habitat for Federal and State listed San Francisco Garter Snake (SFGS) and California Red-Legged Frog (CRLF), and there is little indication that this assessment is no longer applicable. The certified LCP protects such biological resources, including by requiring new development to avoid sensitive habitat and riparian areas and to be set back an adequate distance from such areas to minimize impacts on biological resources. 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.

In addition, the City-approved project appears to allow for new development in the 100-year floodplain associated with Pilarcitos Creek. The LCP requires new development to avoid and minimize hazards, including hazards from flooding, and prohibits new development that causes or contributes to flooding. The City's approval appears to be inconsistent with these hazards policies because there appears to have been inadequate flooding assessment, and it is not clear that flooding hazards have been avoided, and where unavoidable mitigated, appropriately under the LCP, including in terms of ensuring that the development would not intensify flooding on and off site.

Finally, the City-approved project would result in the creation of new legal lots for residential development in an area that is highly constrained in terms of the availability of public services, including traffic capacity. The City's LCP includes strong protections for public access to the coast and specifies that new development shall not be permitted in the absence of adequate infrastructure, including road capacity related to Highways 1 and 92. According to previous traffic analysis, the existing level of service on Highways 1 and 92, which are the primary access roads to the region's coastal areas, is rated at level of service F at numerous bottleneck sections. Level of service F is defined as heavily congested flow with traffic demand exceeding capacity, resulting in stopped traffic and long delays. This level of congestion on these highways significantly interferes with the public's ability to access the Half Moon Bay and San Mateo County coastal area. The City-approved project would create new legal lots for residential development which will cumulatively add to the level of congestion on Highways 1 and 92, further impacting the public's ability to access the coast, and these impacts have not been properly evaluated and mitigated, including through off-site lot retirement as has typically been applied by the City and the Commission in past subdivision cases.

Thus, staff believes that the appeal raises significant questions regarding whether the development approved by the City is consistent with the sensitive habitat protection, traffic capacity and hazards policies in the City's certified LCP. Staff recommends that the Commission

find that the project, as approved by the City, raises a substantial issue of conformity with the City's LCP, and take jurisdiction over the CDP application. Thus staff recommends the Commission find substantial issue. If the Commission does, then the de novo hearing on the merits of the CDP application would be scheduled for a future Commission meeting. The de novo hearing would be continued until such time as the Applicant provides the Commission with updated traffic and flooding reports keyed to LCP-required report parameters. The motion and resolution to effect this recommendation are found below.

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## APPENDICES

Appendix A – Substantive File Documents

## EXHIBITS

- Exhibit 1. Regional Location Map
- Exhibit 2. Project Site Photos
- Exhibit 3. City Approved Subdivision Map
- Exhibit 4. Notice of Final Local Action
- Exhibit 5. John F. Lynch Appeal
- Exhibit 6. Commissioners Brennan and Kinsey Appeal
- Exhibit 7. Correspondence

## I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

### Motion

*I move that the Commission determine that Appeal Number A-2-HMB-12-011 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act. I recommend a no vote.*

Staff recommends a **NO** vote. Following the staff recommendation will result in failure of this motion and will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

### Resolution to Find Substantial Issue

*The Commission hereby finds that Appeal Number A-2-HMB-12-011 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program.*

## II. FINDINGS AND DECLARATIONS

### A. PROJECT LOCATION

The proposed project is located in the City of Half Moon Bay in San Mateo County at 320 Church Street (APNs 056-150-010 and 056-150-120) in the Commercial Downtown Zoning District (C-D) (**see Exhibit 1**). The project site is bounded by Pilarcitos Creek to the north and northeast; Highway 1 to the west; the City Police Station, a vacant lot, and the Shoreline Station retail and office property to the south; and residential development to the east. Currently, the site is undeveloped.

### B. PROJECT DESCRIPTION

The City-approved subdivision divides two parcels, totaling 5.5 acres, into 12 residential lots, and one commercially zoned remainder lot. The approval also establishes 12 residential building envelopes designed to accommodate ten single-family (R-1) units and two multi-family (R-3) structures with up to five units each (a total of ten multi-family units) for a total of 20 residential units. The residential lots range in size from 13,344 square feet to 17,860 square feet, and the remainder commercial lot would be 65,568 square feet. Each of the 10 residential lots and the one remainder commercial lot are located immediately adjacent to Pilarcitos Creek (**see Exhibits 2 and 3**).

The approved project also includes construction of a private road and associated infrastructure (i.e., sewer, water, gas, telephone, fire hydrants, street lights, sidewalk, etc.). The 26-foot wide and approximately 800-foot long private road would provide access to the residential lots with an emergency access gate to separate the remainder parcel from local residential traffic. The road would extend from Church Street to Highway 1.

The approved project includes requirements for the prevention of polluted stormwater discharge, construction best management practices (BMPs), a prohibition on tree removal, and a number of mitigation measures related to biological resources (e.g., a requirement for site surveys conducted by USFWS-approved biologist two weeks before commencement of work to monitor for sensitive species). The approved project also limits development to the portion of the site deemed by the City to be outside of the Pilarcitos Creek riparian corridor and its riparian buffer zone.

See City-approved subdivision map in **Exhibit 3**.

### **C. CITY OF HALF MOON BAY APPROVAL**

On February 2, 2012, Gibraltar Capital submitted an application on behalf of the property owner, Churchside Court LLC, to the City of Half Moon Bay for a Coastal Development Permit (CDP) at 320 Church Street, Half Moon Bay. On April 24, 2012, the Planning Commission recommended the City Council approve the CDP (by resolution P-07-12). On June 5, 2012, the Half Moon Bay City Council approved CDP Application Number PDP-005-11 (by resolution C-28-12; see **Exhibit 4**). Notice of the City Council's action on the CDP was received in the Coastal Commission's North Central Coast District Office on June 8, 2012. The Coastal Commission's ten-working day appeal period for this action began on June 8, 2012 and concluded at 5 p.m. on June 21, 2012. Two valid appeals (see **Exhibits 5 and 6** and also below) were received during the appeal period.

### **D. APPEAL PROCEDURES**

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it involves development that is located within 100 feet of Pilarcitos Creek.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an

appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP.

If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is not located between the nearest public road and the sea, and thus this additional finding would not need to be made if the Commission were to approve a project following a de novo hearing.

## **E. SUMMARY OF APPEAL CONTENTIONS**

The Appellants make contentions in three main areas: stream/riparian/sensitive habitat protection, avoidance of flood hazards, and public service limitations. With regards to habitat, the Appellants contend that the approved development is inconsistent with the LCP’s stream/riparian/sensitive habitat protection policies because (1) the approved development is not adequately set back from sensitive biological resources, namely Pilarcitos Creek and its associated riparian area, and (2) the approved development does not incorporate adequate mitigation measures to prevent impacts that could significantly degrade Pilarcitos Creek related habitats, including those that support the federal and state listed endangered San Francisco garter snake (SFGS) and the federal listed threatened and state listed species of concern California red-legged frog (CRLF).

The Appellants further contend that the approved project is within the dam inundation zone for Pilarcitos Dam, and that no mitigation measures have been included to mitigate flooding risk, and no studies conducted to demonstrate that a dam failure hazard no longer exists or would be reduced or eliminated by improvements.

Finally, the Appellants also contend that the approved subdivision would result in the creation of new legal lots for residential development in an area that is already highly constrained in terms of availability of public services, and where there is an inadequacy of available services and infrastructure, including traffic capacity, and that the services required by the increased demand occurring as a result of the potential development would exceed the existing public service capacity.

See **Exhibits 5 and 6** for the full appeal text.

## **F. SUBSTANTIAL ISSUE ANALYSIS**

### **Substantial Issue**

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises

no significant question" (California Code of Regulations, Title 14, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors in making such determinations:

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

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

In this case, for the reasons discussed further below, the Commission determines that the development as approved by the City presents a **substantial issue**.

### **Applicable LCP Policies**

The City's LCP includes strong protections for biological resources, including sensitive habitats.

#### 3-1 Definition of Sensitive Habitats

- (a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) **habitats containing or supporting "rare and endangered" species**..., (2) all perennial and intermittent streams and their tributaries, ... (6) lakes and ponds and adjacent shore habitat ...[Emphasis added]

#### 3-3 Protection of Sensitive Habitats

- (a) 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 Sensitive Habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.



### 3-4 Permitted Uses

- (a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.
- (b) In all sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife Service and State Department of Fish and Game regulations.

### 3-5 Permit Conditions

- (a) Require all applicants to prepare a biologic report by a qualified professional selected jointly by the applicant and the city to be submitted prior to development review. The report will determine if significant impacts on the sensitive habitats may occur, and recommend the most feasible mitigation measures if impacts may occur.

The report shall consider both any identified sensitive habitats and areas adjacent. Recommended uses and intensities within the sensitive habitat area shall be dependent on such resources, and shall be sited and designed to prevent impacts which would significantly degrade areas adjacent to the habitats. The city and the applicant shall jointly develop an appropriate program to evaluate the adequacy of any mitigation measures imposed.

### 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, marrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

### 3-10 Performance Standard in Riparian Corridors

- (a) Require development permitted in corridors to: (1) minimize removal of vegetation; (2) minimize land exposure during construction and use temporary vegetation or mulching to protect critical areas; (3) minimize erosion, sedimentation, and runoff by appropriately grading and replanting modified plant species when replanting; ...and (9) maintain natural vegetation buffer areas that protect riparian habitats.

### 3-21 Designation of Habitats of Rare and Endangered Species

In the event the habitat of a rare and endangered species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31.

### 3-23 Permit Conditions

Require, prior to permit issuance, that a qualified biologist prepare a report which define requirement of rare and endangered organisms... (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

### 3-24 Preservation of Critical Habitats

Require preservation of all habitats of rare and endangered species using the policies of this Plan and other implementing ordinances in the City.

### **Applicable IP/Zoning Code Policies**

18.38.020 Coastal Resource Areas. The Planning Director shall prepare and maintain maps of all designated Coastal Resource Areas within the City. Coastal Resource Areas within the City are defined as follows:

- A. Sensitive Habitat Areas. Areas in which plant or animal life or their habitats are either rare or especially valuable, and/or as designated on the Habitat Areas and Water Resources Overlay Map. Areas considered to be sensitive habitats are listed below.

Sensitive Habitat	
1.	sand dunes
2.	marine habitats
3.	sea cliffs
4.	riparian areas;
5.	wetlands, coastal tidelands and marshes, lakes and pondsand adjacent shore habitats
6.	coastal and off-shore areas containing breeding and/or nesting sites or used by migratory and resident water-associated birds for resting and feeding
7.	areas used for scientific study and research concerning fish and wildlife, and existing game or wildlife refugesand reserves
8.	habitats containing or supporting unique species or any rare and endangered species defined by the State Fish and Game Commission
9.	rocky intertidal zones
10.	coastal scrub community associated with coastal bluffsand gullies

18.38.050 Environmental Evaluation Standards Projects proposed within Coastal Resource Areas shall be evaluated in an Initial Study and any necessary subsequent California Environmental Quality Act (CEQA) documents according to the following general standards (in addition to those set forth in CEQA guidelines):

A. Development and Land Use:

1. Shall be prohibited when significant adverse impacts on coastal resource areas would occur as a result.

2. Shall be sited and designed to prevent impacts that could significantly degrade adjacent sensitive habitat areas or significantly degrade areas adjacent to sensitive habitat areas.
3. Shall be compatible with the maintenance of biologic productivity of any adjacent sensitive habitat areas.
4. Shall be permitted within sensitive habitat areas only if they are resource-dependent uses or other uses which will not have any significant adverse environmental impacts, and if the uses comply with U.S. Fish and Wildlife Service and State Department of Fish and Game regulations.
5. Shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural land forms along bluffs and cliff, and shall minimize risks to life and property in hazard areas.
6. Shall comply with the restrictions listed in this Title for each coastal resource area, and with all other applicable sections of the City's Local Coastal Program Land Use Plan.

18.38.085 Habitats for Rare and Endangered Species

- A. Rare and Endangered Species. The potential exists for any of the following Rare and Endangered Species to be found within the San Mateo County Coastal Area and therefore within the City of Half Moon Bay:
1. Animals: the San Francisco Garter Snake, California Least Tern, California Black Rail, California Brown Pelican, San Bruno Elfin Butterfly, San Francisco Tree Lupine Moth, Guadalupe Fur Seal, Sea Otter, California Brackish Water Snail, Globose Dune Beetle...

- D. Buffer Zones. **The minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet.** [Emphasis added.]

The City's LCP also requires development to avoid and minimize risks due to hazards, including flooding hazards. Relevant policies include:

4-2 Planning Issues

The primary hazards affecting future land use and development in Half Moon Bay involve flooding, cliff retreat, landslides and rockfalls, and tsunamis (tidal waves). The extent of these hazards is widespread and susceptible to augmentation by alteration of the environment by human activities. The public ownership of significant beach and cliff areas and existing greenbelt zoning designations mitigate potential damage. However, existing plans and policies are deficient with regard to protection several specific areas and in lack of development policies and standards in locations of identified hazard potential.

Flood Hazards

The Federal Insurance Administration (Department of Housing and Urban Development) has recently rescinded their flood hazard boundary map for the City of Half Moon Bay, having determined to their satisfaction that there is no substantial danger of a 100-year or 500-year flood in any part of the City. However, **as a precautionary measure, the Administration recommends that a zone of approximately 200 feet be used as the boundary of flood hazard where the stream corridor is less than this width.** In addition, it cautions against development which would aggravate potential flood hazards. The City's existing greenbelt zoning district generally has a minimum width of 200 feet, with greater widths in areas of full channel width. **A full assessment of potential inundation from upstream dam failure has not been completed. Bases upon preliminary analysis, the zone of potential inundation from dam failure is wider than 200 feet along some portions of Pilarcitos Creek. This zone ranges in width from 200 to 600 feet.** Studies are now in preparation to determine the potential for future dam failure resulting from seismic events. [Emphasis added]

The existing Pilarcitos Creek Channel's capacity to accommodate heavy flows between Main Street and Highway 1 appears to have been reduced by construction of the bridge on Main Street and heavy overgrowth and dumping in the creek between Main Street and heavy overgrowth and dumping in the creek between main Street and Highway 1. Some channel improvements may be required in order to eliminate hazards to existing or new structures in this area, possible including ultimate reconstruction of the bridge to expand the effective channel for water flows. Hazards west of Highway 1 may be more effectively avoided by controls on new development, although some existing structures may be in the zone of potential inundation from dam failure.

4-6 Applications for grading and building permits and applications for subdivision shall be reviewed for adjacency to, threats from, and impacts on geologic hazards arising from seismic events, tsunami run-up, landslides, flooding, or other geologic hazards...

4-7 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 or will be 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 indicted, 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, may be permitted provided that such uses shall not be permitted within the area of the stream corridor. (See policies in Section 3 on Protection of Sensitive Habitats).

4-8 No new permitted development shall cause or contribute to flood hazards.

4-9 All development shall be designed and constructed to prevent increases in runoff that would erode natural drainage courses. Flows from graded areas shall be kept to an absolute minimum, not exceeding the normal rate of erosion and runoff from that of the undeveloped land. Storm water outfall, gutters, and conduit discharge shall be dissipated.

18.38.045 Geological Report

A. When Required. The applicant shall submit a geological report for shoreline structures, for any structure to be built within one hundred feet of the bluff edge, any sea wall or cliff-retaining structure, and projects which involve substantial alteration of waterways, and for any development in areas of known geologic hazards, including but not limited to those indicated on the LUP geologic hazards map or in any area known to contain expansive soils or to be subject to subsidence.

B. Report Contents. All geologic reports prepared pursuant to this chapter shall include an evaluation of the proposed development's adjacency to, threats from, and impacts on geologic hazards arising from seismic events, and from any other hazardous event or situation potentially affecting the particular parcel(s) on which the development is proposed, e.g., flooding, tsunami run-up, landslides, or other geologic conditions such as expansive soils and subsidence areas. The evaluation shall recommend mitigation measures to ensure the elimination or reduction of identified hazards, including, as appropriate to location or project specifics, measures to minimize erosion problems during and after construction and to ensure that development will not contribute to flood hazards.

18.38.030 Required Reports

Biological, archeological and geological reports shall be required as set forth in Sections 18.38.035, 18.38.040, and 18.38.045. Required reports shall be prepared by a qualified professional selected by the city in accordance with established city procedures.

Unless otherwise specified herein, all required biological, archaeological, and geological reports shall be performed by a consultant selected by the city and paid for by the applicant.

A. Report Requirements. The following requirements apply to reports.

1. Reports shall identify significant impacts on identified coastal resources on the project site that would result from development of the proposed project.
2. Reports shall recommend feasible measures to mitigate any significant impacts and to protect the identified coastal resource. The adequacy of these measures shall be evaluated under a program developed jointly by the applicant and the planning measures may include, but are not limited to:
  - a. Changes in development intensity;
  - b. Siting of buildings, structures or paving; and
  - c. Limitations on the timing and location of construction.
3. Reports shall contain a proposed monitoring and reporting program to ensure that development conditions imposed are adequately being carried out and that significant impacts on the coastal resources have not occurred.
4. Reports shall be reviewed by the city for consistency with this title and with the California Environmental Quality Act.
5. **Reports shall be completed to the satisfaction of the planning director prior to the determination that a required development permit application is considered complete.**  
[Emphasis added]

B. Exceptions. The planning director may grant exceptions to the requirements of this chapter if he or she finds that existing studies adequately fulfill the requirements of this chapter, provided such studies were prepared by a qualified professional as a part of a previously certified final EIR in accordance with the provisions of this chapter.

Finally, the City's LCP prohibits development that would not be served by adequate public services. It states:

9-4 All new development other than development on parcels designated urban reserve or open Space Reserve on the Land Use Plan Map permitted while such designations are effective, shall have available water and sewer services and shall be accessed from a public street or shall have access over private streets to a public street. Prior to approval of a development permit, the Planning Commission or City Council shall make the finding that adequate services and resources will be available to serve the proposed development upon its completion and that such a development is located within and consistent with the policies applicable to such an area designated for development. The applicant shall assume full responsibility for costs incurred in the service extensions or improvements that are required as a result of the proposed project, or such share as shall be provided if such project would participate in an improvement or assessment district. Lack of available services or resources shall be ground for denial of the project or reduction in the density otherwise indicated in the Land Use Plan.

9-7 The City shall reserve the right to reduce the density specified in the Land Use Plan for a particular parcel if it is determined that such reduction is warranted by conditions specifically applicable to the site, such as topography, geologic or flood hazards, habitat areas, or steep slopes, particularly where such constraints are indicated by the overlay designations on the Land Use Plan Maps.

## **Analysis**

### **Biological Resources**

Pilarcitos Creek is designated critical habitat for California Red-legged Frog (*Rana aurora draytonii*) and for central California coast ESU steelhead (*Oncorhynchus mykiss irideus*) by the U.S. Fish and Wildlife Service. California Red-Legged Frog and San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*) have both been documented within 1 mile of the biological study area (BSA) for the Pilarcitos Creek riverine habitat. Pursuant to the LCP, Pilarcitos Creek is sensitive habitat because it is a stream (LCP Policy 3-1). In addition, its associated riparian corridor is also sensitive habitat per the LCP (LCP Section 18.38.020). In addition, previous determinations by biologists from the Coastal Commission, CDFG and USFWS indicate that Pilarcitos Creek and its associated riparian areas serve as habitat for the San Francisco garter snake and CRLF, deemed by the LCP as well as the federal and state endangered species acts as rare and endangered species, and thus this habitat qualifies as sensitive habitat under the LCP for this reason as well (LCP Sections 18.38.020 and 18.38.085).

The LCP prohibits all but resource dependent uses in sensitive habitats, and requires development adjacent to sensitive habitats to be sited and designed to prevent impacts that could significantly degrade the habitats and requires uses to be compatible with the maintenance of biological productivity of the sensitive habitat. The LCP also prescribes a minimum buffer from rare and endangered species habitat of 50 feet. (Refer to LCP Policies 3-3, 3-4, 3-5, and 3-23, and Sections 18.38.050 and 18.38.085).

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.

The approved subdivision establishes residential building envelopes set back 50 feet from the edge of Pilarcitos Creek riparian vegetation. The remainder lot was originally proposed for commercial development, but the City's approval required it to remain undeveloped.

The City-approved 50-foot buffer is not adequate to meet LCP requirements in this case. In addition, even if it were a large enough buffer, it is unclear how the buffer area would be protected. Further, the City's conditions of approval require a future biological study to establish the riparian setback limit, identify impacts and recommend mitigation measures. Delaying such biological studies does not allow for adequate evaluation of the resources at the site, as required by the LCP. In addition, the City's condition does not require sensitive habitats that are identified through the future studies to be avoided, as required by the LCP, but instead allows for impacts to be mitigated. Further, it is unclear how this requirement, if different than the 50-foot buffer approved, would be implemented, and there are no conditions related to either protection during construction or ongoing protection of the buffer area (e.g., as could have been ensured via conditions, including conditions requiring a deed restriction or easement to be placed on this property to delineate the riparian buffer zone). Similarly, the City's approval did not provide explicit measures to ensure the protection of the CRLF or the SFGS from potential impacts that could result from the approved subdivision and potential development and construction (e.g., seasonal work restrictions, contractor education, etc.).

In summary, Pilarcitos Creek habitat has not been adequately protected as required by the LCP, and the City's approval raises a substantial LCP conformance issue with respect to protecting habitat resources.

### **Hazards**

The LCP requires that hazards be identified, avoided, and where unavoidable, mitigated, including due to threats from flooding, including explicitly flooding related to Pilarcitos Creek, and potential dam failure at Pilarcitos Dam. According to the LCP, the Pilarcitos Creek channel's capacity to accommodate heavy flows between Main Street and Highway 1 is questionable and channel improvements may be required to eliminate hazards to existing or new structures in this area, and that potential hazards west of Highway 1 may be more effectively controlled by implementing controls on new development in this area. The LCP also states that a full assessment of potential upstream dam failure has not been completed, and that the zone for potential inundation from dam failure is wider than 200 feet along some portions of Pilarcitos Creek (and ranges in width from 200 to 600 feet). The LCP prohibits new development that

causes or contributes to flooding, including that the applicant is responsible for demonstrating that the hazard no longer exists or will be eliminated or reduced by improvements consistent with LCP policies. Furthermore, in areas of flooding due to tsunamis or dam failure, the LCP prohibits new development except when the applicant demonstrates that the hazard no longer exists (See LCP Policies 4-2, 4-6, 4-7, and 4-8, and LCP Sections 18.38.030 and 18.38.045).

The City-approved subdivision appears to allow for new development in both the floodplain of Pilarcitos Creek as well as being located in the zone of potential inundation from dam failure. All of the approved lots extend from north to south approximately 300 feet, starting from the edge of the stream bank. As shown on the submitted plans, Pilarcitos Creek is approximately 30 to 45 feet wide, although this area fluctuates dependent on weather and seasonal conditions. Thus, the lots are located in the LCP's 200-foot flood evaluation band, as well as in the LCP's 600-foot flood evaluation band associated with Pilarcitos Creek.

The City's approval appears to be inconsistent with the LCP's flooding hazard policies because there are no required conditions or mitigations that would avoid or minimize the hazards on the site, or that would ensure the development would not intensify flooding on or off of the site. The approval is structured for future submittal of a more comprehensive geotechnical report verifying suitability of the proposed lots in light of flooding, but a future report does not meet LCP tests for demonstrating development suitability at the time of decision. There are no other conditions related to address hazards and impacts and recommend mitigation measures.

Therefore, because the approved subdivision is located in the LCP defined flood hazard area, and the City's approval does not include comprehensive studies to identify potential impacts or to recommend mitigation measures to adequately prevent the impacts related to the potential development which would be located within the potential flood hazard zone, as well as the dam inundation zone, it is not clear that the lots, the building envelopes, and infrastructure can be found consistent with the LCP on these points. Thus, the City's approval raises a substantial LCP conformance issue with respect to flooding hazards.

### **Public Service Capacity**

The LCP includes strong protections for public access to the coast and specifies that new development shall not be permitted in the absence of adequate infrastructure, including road capacities along Highways 1 and 92. The City-approved project would result in the creation of new legal lots for residential and commercial development in an area that is highly constrained in terms of the availability of public services, including traffic capacity. The subdivision is located to the east of Highway 1 in a location where residential development would increase vehicle trips on Highway 1 and nearby Highway 92. According to previous traffic analysis, the existing level of service on Highways 1 and 92, which are the primary access roads to the region's coastal areas, is rated at level of service F at numerous bottleneck sections. Level of service F is defined as heavily congested flow with traffic demand exceeding capacity, resulting in stopped traffic and long delays. This level of congestion on these highways significantly interferes with the public's ability to access the Half Moon Bay and San Mateo County coastal area.

In its review of the project, the City considered a project-specific traffic analysis that determined the short-term and cumulative traffic impacts of the proposed development on four signalized



intersections and three unsignalized intersections in the vicinity of the project site during the weekday AM and PM peak periods of traffic. The results of the intersection level of service analysis show that, measured against the City of Half Moon Bay level of service impact criteria, none of the study intersections would be significantly impacted by the proposed project. However, the traffic study did not fully evaluate traffic on Highways 1 and 92, with respect to highway segment traffic impacts not just intersections. Considering that these Highways are already operating at deficient levels of service at certain locations and times, which currently results in traffic congestion and delays, a more in-depth analysis is required to be able to conclude on the effects of traffic, and potential mitigations for same to make the project LCP consistent. For example, in past cases, the Commission has relied on off-site lot retirement to ensure that new subdivisions do not result in adverse traffic impacts (e.g. CDPs A-1-HMB-99-022 (Ailanto) and A-2-HMB-07-034 (Carnoustie)). It does not appear that the facts of this case with respect to traffic and lot retirement are different in material ways from these past cases, and thus 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. Thus, it is unclear that traffic capacities have been adequately analyzed, and it appears that the approved project lacks appropriate mitigation for such impacts. Thus, the City's approval raises a substantial LCP conformance issue with respect to public access and public service capacity.

## G. CONCLUSION: SUBSTANTIAL ISSUE

### Substantial Issue

The City approved subdivision at 320 Church Street raises substantial issues regarding protection of Pilarcitos Creek habitat resources, identification, avoidance, and mitigation for flooding hazards, adequacy of traffic analyses and potential impact mitigation. The Commission finds that the appeals raise a **substantial issue** concerning the consistency of the approved development with the policies of the Half Moon Bay LCP, and takes jurisdiction over the CDP application for the project.

### Information Needed for *De Novo* Review of Application

Prior to bringing this matter back for Coastal Commission review in a *de novo* CDP hearing context, the applicant will need to provide the information necessary to evaluate the project for consistency with the LCP and the public access and recreation policies of the LCP. Absent information regarding alternative siting and design, the Commission will not be in a position to evaluate the proposed project against these requirements, and does not intend to schedule a hearing until the City and/or the Applicant has developed and provided further information to bridge the analytic gaps that are currently present and associated with the proposed project. Such information includes the following:

- An updated biological report that includes a wetland delineation conducted pursuant to Commission criteria, identifies the existing habitat resources on and adjacent to the site, including habitat for sensitive species, recommends appropriate habitat setbacks and identifies mitigation measures necessary to avoid impacts of the development on biological resources.

- An updated traffic report that identifies the impacts of this project on Highway 1 and Highway 92 traffic, including with respect to weekdays and weekday peak times, but also weekend and summer peak times in relation specifically to recreational traffic on these Highways. For all impacts indentified, the report shall identify appropriate mitigation, including off-site lot retirement options available in the vicinity.
- An updated flood hazard report that evaluates flooding hazards of the site in light of the above-listed LCP policy requirements. For all impacts indentified, the report shall identify appropriate mitigation, including potential modifications to lots, building envelopes, and infrastructure.

## **APPENDIX A: Substantive File Documents**

Initial Study and Mitigated Negative Declaration prepared for City of Half Moon Bay by PMC, March 2012

Biological Resource Assessment prepared for City of Half Moon Bay by PMC, January 2012

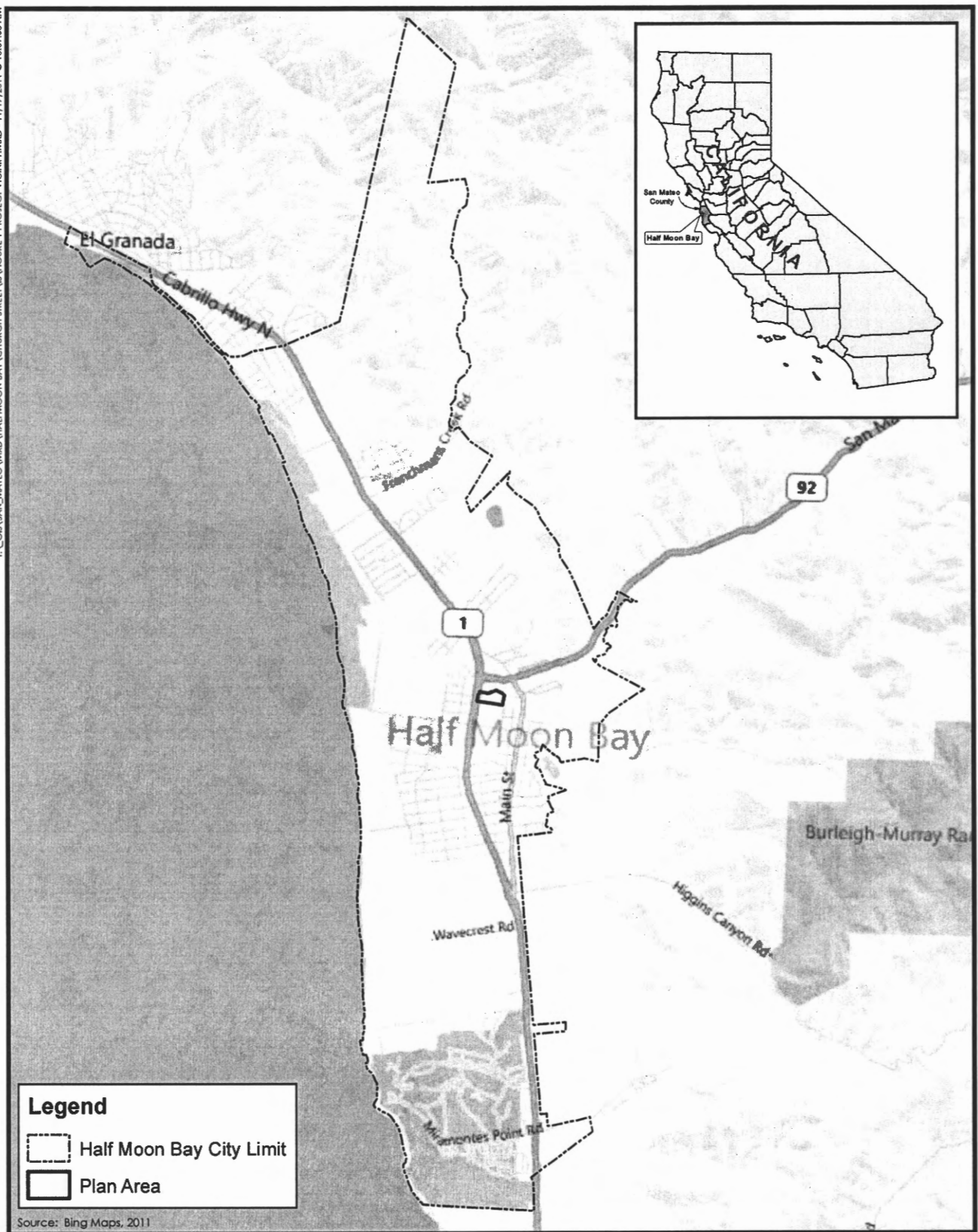
Transportation Impact Analysis (Draft Report) Prepared for PMC by Hexagon Transportation Consultants Inc., March 2012

Mitigation Monitoring and Reporting Program prepared for City of Half Moon Bay by PMC, April 2012

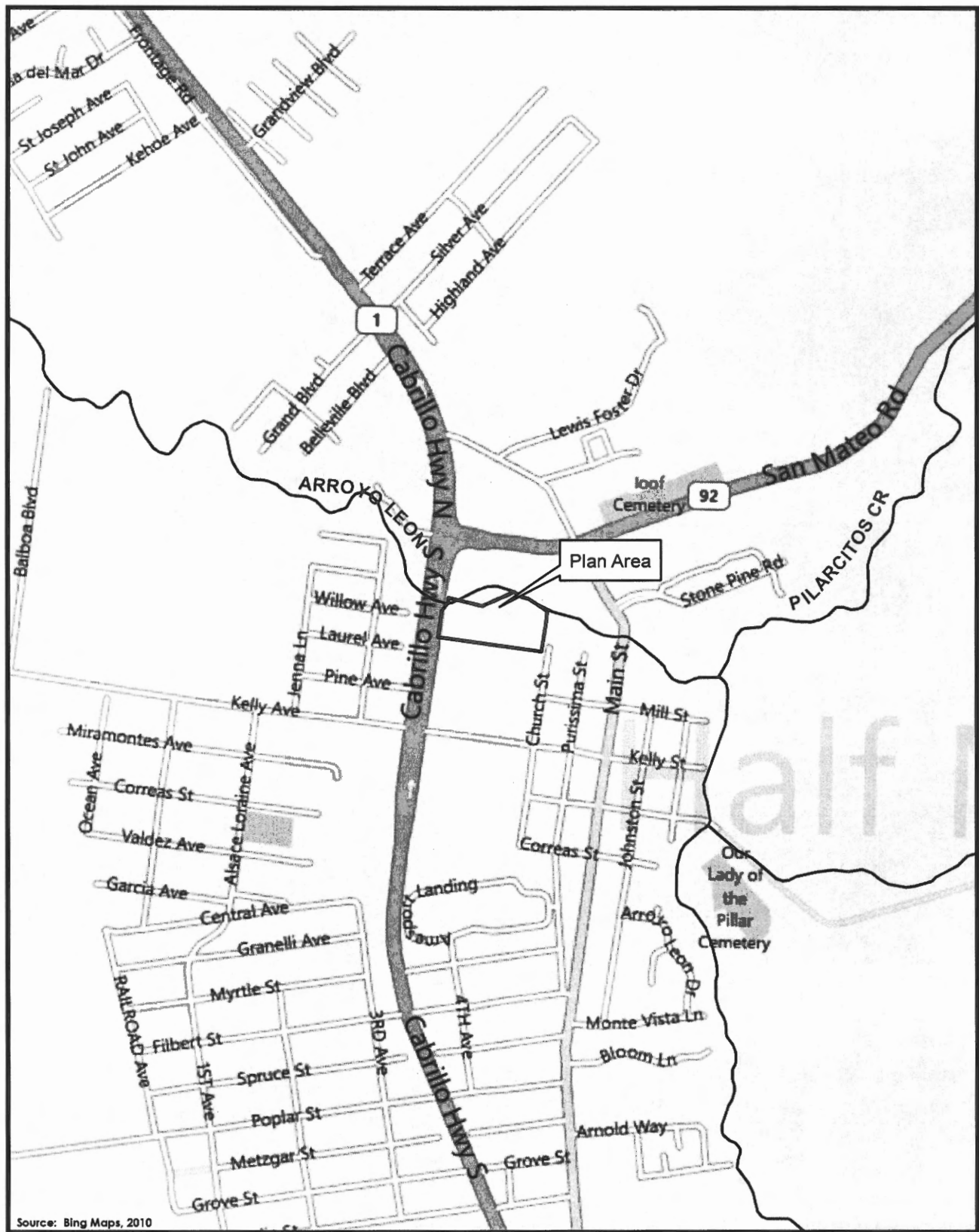
## **EXHIBITS**

1. Regional Location Map
2. Project Site Photos
3. City Approved Subdivision Map
4. Notice of Final Local Action
5. John F. Lynch Appeal
6. Commissioners Brennan and Kinsey Appeal
7. Correspondence

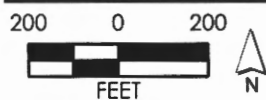
I:\GIS\SAN\_MATEO\HMOON\HMOON\_BAY\CHURCH\_STREET\FIGURE 1 PROJECT VICINITY.AXD - 11/17/2011 @ 10:09:08 AM



**Figure 2.0-1**  
Project Vicinity  
**PMC**

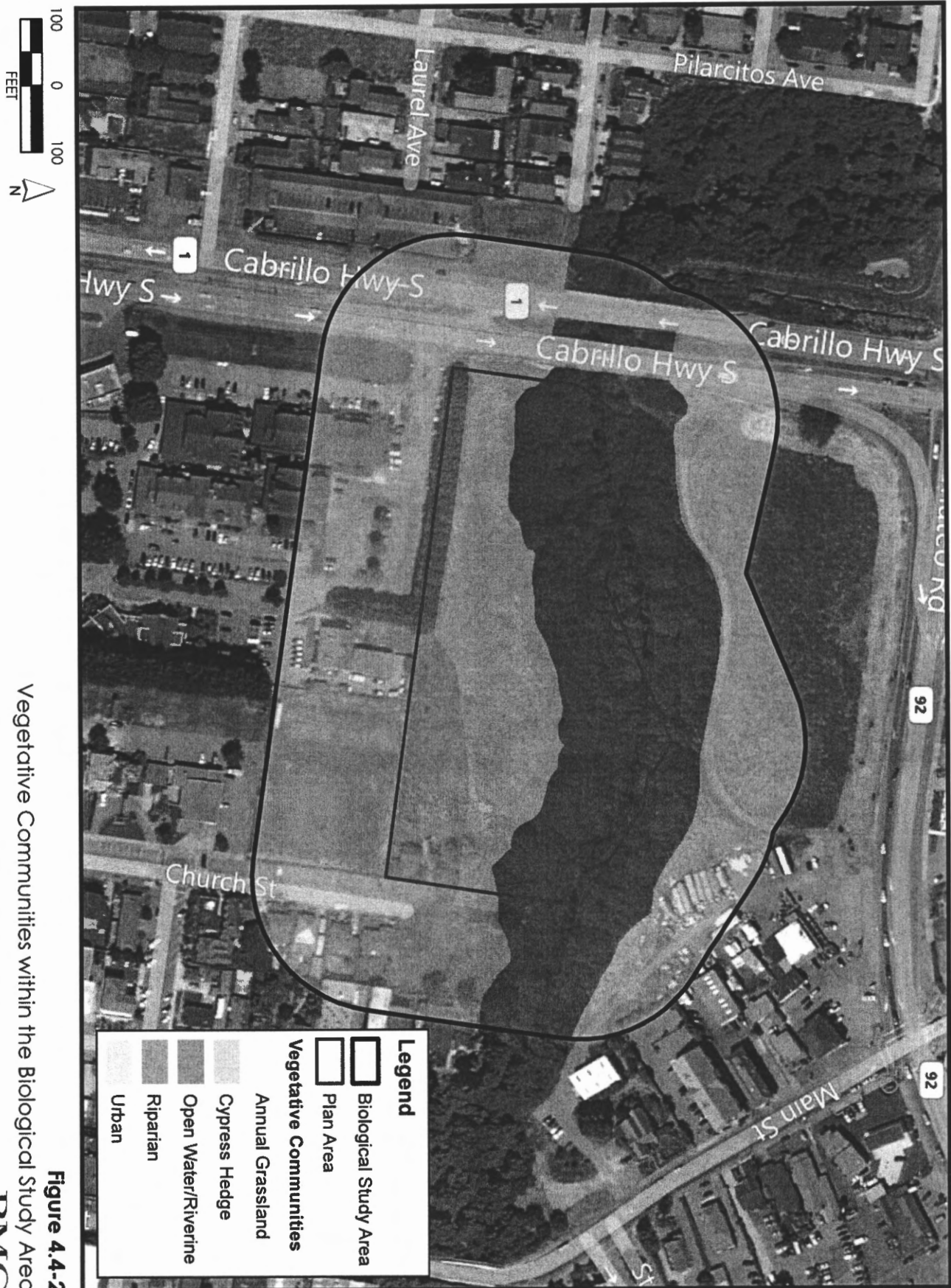


**Figure 2.0-2**  
Project Location Map  
**PMC**



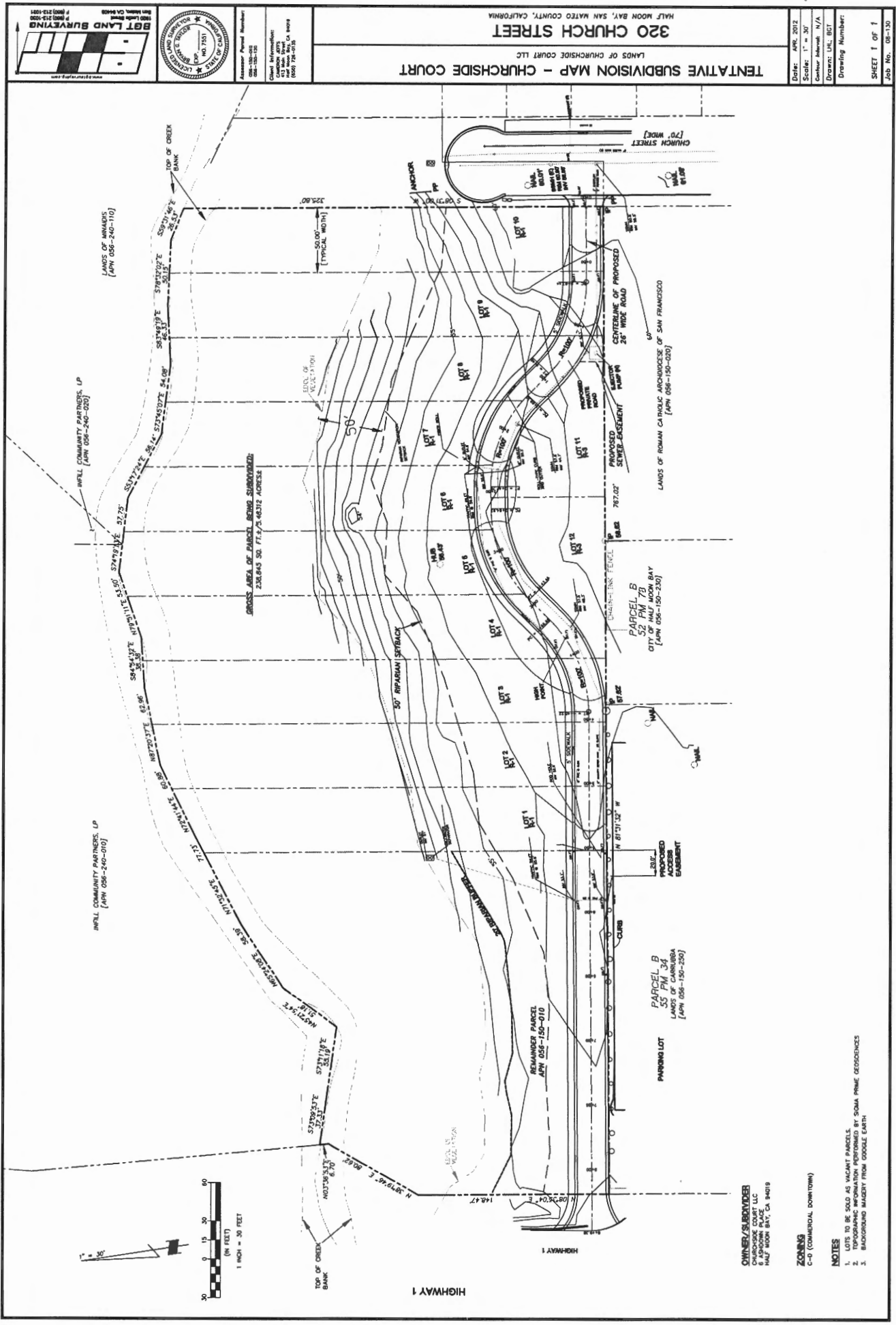
**Figure 4.4-1**  
Biological Study Area  
**PMC®**





**Figure 4.4-2**  
Vegetative Communities within the Biological Study Area





Date: June 2012  
 Scale: 1" = 30'  
 Contour Interval: 1/4"  
 Drawn: LAL BEI  
 Drawing Number:  
 SHEET 1 OF 1  
 Job No. 08-130

**OWNER/SUBDIVIDER**  
 CHURCHSIDE COURT LLC  
 100 MOON BAY, CA 94019  
**ZONING**  
 C-0 (COMMERCIAL DOWNTOWN)  
**NOTES**  
 1. LOTS TO BE SOLD AS VACANT PARCELS.  
 2. TOPOGRAPHIC INFORMATION PERFORMED BY SIGMA PRIME GEOSCIENCES  
 3. BACKGROUND IMAGERY FROM GOOGLE EARTH

2-HMB-12-004  
Appealable

**NOTICE OF FINAL ACTION**  
**Coastal Development Permit**

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

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Date: June 6, 2012 File: PDP-005-11

Applicant/Owner: Gibraltar Capital/Cameron Jeffs  
413 Main Street  
Half Moon Bay, CA 94019

Planner: Tonya Ward, Associate Planner

This notice is being distributed to the Coastal Commission and to those who requested notice. The following project is located within the appealable area of the Coastal Zone. The Planning Commission recommended the City Council approve the Coastal Development Permit on April 24, 2012, by Resolution No. P-07-12. The Planning Commission's decision was not appealed to the Half Moon Bay City Council within the ten working-day appeal period. The City Council reviewed the Planning Commission's recommendation for approval and approved the Coastal Development Permit on June 5, 2012, by Resolution C-28-12.

Project Description: Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, 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 1 remainder lot with associated improvements, including utilities as shown on plans with City date stamp of April 24, 2012, including any conditions of approval imposed by the City Council.

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

APNS: 056-150-010/120

APPROVED by the City Council on June 5, 2012, based upon Findings for Approval contained in the attached Resolution for Approval.

Local Review of this Coastal Development Permit Application is now complete. The City's approval of this Coastal Development Permit application may be appealed to the California Coastal Commission in accordance with California Public Resources Code Section 30603. A 10 working-day appeal period for appeal of this action to the Coastal Commission will commence the next working day following the Commission's receipt of this notice of final local action. Please contact the Coastal Commission's North Central Coast District Office at (415) 904-5260 for further information about the Commission's appeal process.





**I, SIOBHAN SMITH, CITY CLERK OF THE CITY OF HALF MOON BAY, DO HEREBY CERTIFY that the attached is a full, true and correct copy of Resolution No. C-28-12, "A Resolution of the City Council 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)" approved by the Half Moon Bay City Council at their Regular City Council Meeting held on the 5<sup>th</sup> day of June, 2012.**

**DATED this 6th day of June, 2012**

**Siobhan Smith  
City Clerk**

**RESOLUTION NO. C-28-12**

**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

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 5<sup>th</sup> day of June, 2012 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers: Muller, Patridge, Mayor Alifano, Vice Mayor Kowalczyk

NOES, Councilmembers:

ABSENT, Councilmembers: Fraser

ABSTAIN, Councilmembers:

ATTEST:

\_\_\_\_\_  
Siobhan Smith, City Clerk

\_\_\_\_\_  
Alan Alifano, Mayor

**PLANNING COMMISSION RESOLUTION P-07-12  
RESOLUTION FOR APPROVAL  
PDP-005-11**

**Tentative Subdivision Map, Coastal Development Permit, Lot Line Adjustment and Use Permit to divide two parcels (Assessor's Parcel Numbers: 056-150-010 and 056-150-120) totaling 5.5 acres into 12 residential lots and one remainder lot with associated improvements, including utilities located in the C-D (Commercial Downtown) Zoning District**

**WHEREAS**, an application was submitted to the City of Half Moon Bay by Gibraltar Capital/Cameron Jeffs requesting a 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 commercial lot with associated improvements, including utilities at 320 Church Street in a C-D (Commercial Downtown) Residential Zoning District; and

**WHEREAS**, the City processed the application in accordance with the Permit Streamlining Act and with the requirements of the California Environmental Quality Act (CEQA) as set forth in California State Public Resources Code Section 21000; 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 for the project by the City of Half Moon Bay; and

**WHEREAS**, 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 all those desiring to comment were given the opportunity; 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 accessway 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 approves the request of a 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 associated improvements, including utilities at 320 Church Street in a C-D (Commercial Downtown) Residential Zoning District; and

**WHEREAS**, the MND is complete, correct and adequate, and prepared in accordance with the California Environmental Quality Act (CEQA) and applicable with State and County Guidelines; and

**WHEREAS**, the City received written comments on the MND during the public review period and such comments have been included and responded to in the final

Mitigated Negative Declaration (MND) and have been presented to the Planning Commission; and

**WHEREAS**, the Planning Commission finds the mitigation measures identified in the MND, 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 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**, 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

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

**WHEREAS**, the Planning Commission has considered all written and oral testimony presented for their consideration regarding the review of the environmental documents presented to them; 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

**WHEREAS**, the Planning Commission recommends that the City Council adopt the MND prepared for this project, subject to findings, and adopt the Mitigation Monitoring and Reporting Program, and Incorporated herein.

**WHEREAS**, the Planning Commission has 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 to this resolution;

**NOW, THEREFORE, BE IT RESOLVED** the Planning Commission of the City of Half Moon Bay, as the Advisory Body to the City Council, does hereby resolve and recommend that the City Council approve PDP-005-11, an application for a 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 associated improvements, including utilities located in the C-D (Commercial Downtown) Zoning District (Assessor's Parcel Numbers: 056-150-010 and 056-150-120).

**THIS RESOLUTION AND RECOMMENDATION PASSED AND ADOPTED** by the  
City of Half Moon Bay Planning Commission at a duly noticed public hearing held on April  
24, 2012, by the following vote:

AYES, Commissioner Jonsson, Commissioner Conroy, Vice Chair Rosenblatt, Chair Roman  
NOES,  
ABSENT, Commissioner Les Deman  
ABSTAIN,

ATTEST:

  
\_\_\_\_\_  
Pat Webb, Interim Planning Director

APPROVED:

  
\_\_\_\_\_  
Tom Roman, Chair

**EXHIBIT A  
FINDINGS AND EVIDENCE  
PDP-005-11**

**Tentative Subdivision Map, Coastal Development Permit, Lot Line Adjustment and Use Permit to divide two parcels (Assessor's Parcel Numbers: 056-150-010 and 056-150-120 ) totaling 5.5 acres into 12 residential lots and one remainder lot with associated improvements, including utilities located in the C-D (Commercial Downtown) Zoning District**

**Coastal Development Permit – Findings for Approval**

The required Coastal Development Permit for this project may be approved or conditionally approved only after the approving authority has made the following findings per Municipal Code Section 18.20.070:

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

**Evidence:** The project does not interfere with the public's access to the coastal trail, beach or sea. The project has been reviewed for conformance with all policies of the Coastal Land Use Plan and has been determined to be consistent. The following specific Coastal Act and local policies are especially noted:

**Coastal Act 30244:** *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

**Compliance:** The project is not located near identified archaeological or paleontological sites. However, staff is recommending a condition to require that the project cease operations and a study be performed on any artifacts that are found during construction.

**Coastal Act 30250:** *New residential, commercial or industrial development except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

**Compliance:** This project is located within a predominantly built-out neighborhood with adequate public services. The project will not have significant adverse effects, either individually or cumulatively, on coastal resources.

**Policy 7-4:** *Utilities shall continue to be placed underground in all new developments.*

**Compliance:** The conditions of approval require underground utilities and communications.

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

**Evidence:** Chapter 17.06 of the Half Moon Bay Municipal Code, the Residential Dwelling Unit Allocation System implements the policies and guidelines of the City as established by the General Plan, its Elements, and the Local Coastal Program Land Use Plan, based on the mandate of Measure D, an ordinance limiting residential growth to no more than 1% per year, plus an additional 0.5% for additional dwelling units in the area defined by Measure D as the "Downtown Area".

The applicant shall apply for and obtain a residential dwelling unit allocation for each proposed dwelling unit prior to submitting an application for a Coastal Development Permit. In this instance, the developer can option to sell to one buyer or multiple buyers who will then be required to obtain a Measure D certificate for each residential unit prior to issuance of a building permit.

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

**Evidence:** The site is zoned Commercial Downtown (C-D), a district intended to implement the provisions of the Downtown Specific Plan calling for the establishment of development standards and a range of uses that would be maintained and be consistent with the historic patterns and pedestrian scale of development within the historic downtown area. The C-D district is intended to provide for visitor-serving commercial uses such as restaurants and art galleries, certain public uses and other retail and commercial uses. the C-D district allows single and multi-family residential uses with approval of a Use Permit. The proposed project includes a Use Permit and upon approval will be an allowed use.

The proposed project will result in the development of ten single-family units, two multi-family structures with up to five units each (total of ten multi-family units), a private road and associated infrastructure improvements on the project site. Single family residences proposed on lots 1 through 10 shall meet all of the development standards for the R-1 (Single-Family District) whereas lots 11 and 12 that contain structures with three or more units shall be subject to the R-3 (Multi-Family) residential district standards. The C-D zoning designation for the remainder lot is unchanged. The property owner is responsible, by approval of the final map process, to maintain the appearance of the remainder lot.

The private road will provide access to the residential lots with an emergency access gate to separate the remainder parcel from local residential traffic. Various infrastructure improvements and connections include water system improvements to increase capacity and pressure, sewer improvements along Church Street, landscaping, and new fire hydrants. In summary, the proposed project would be consistent with the applicable provisions of the Land Use Plan and Zoning Ordinance.

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



**Evidence:** Construction and operation of the proposed project will require water supplies from the Coastside County Water District. According to the *Coastside County Water District 2010 Urban Water Management Plan*, CCWD's normal year supplies are sufficient to meet projected normal year demands through 2035. In addition, the project will be required to comply with Chapters 13.04 (Water Conservation in Landscaping Regulations) and 13.05 (Indoor Water Use Efficiency Regulations) of the City's Municipal Code. These regulations require that water efficiency standards be met by indoor water fixtures (toilets, showers, faucets, clothes washers, etc.) as well as outdoor landscaping. These regulations will minimize water demand associated with the project.

Adequate wastewater treatment, collection/conveyance infrastructure, capacity, as well as proposed on-site infrastructure would be provided to the project from existing Sewer Authority Mid-Coastside Treatment Plant (SAM) and City infrastructure. The proposed project is located in an urbanized area that is currently served by utility infrastructure and any extension of service would connect to the City's existing sewer main located in Church Street. As proposed, the project would not be expected to exceed the wastewater treatment requirements or result in the construction of new wastewater treatment facilities or expansion of existing facilities. Therefore, adequate sewer collection facilities would be available to serve the proposed project.

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

**Evidence:** The proposed project is not located between the sea and the first public road parallel to the sea, will not restrict or otherwise adversely affect public coastal access or public coastal recreational opportunities, because it involves residential construction on an existing residential lot, does not involve new public roads, does not alter existing access ways and will utilize the existing public roads.

6. **Tentative Subdivision Map – Findings**

Section 17.20.055 of the Municipal Code, consistent with section 66474 of the State Government Code, states that the Planning Commission shall not forward a recommendation of approval to the City Council and the City Council shall deny approval of a tentative subdivision map if it makes any of the following findings:

1. That the proposed map is not consistent with the city's general plan or its elements, the local coastal plan and any other applicable plans;
2. That the design or improvement of the proposed subdivision is not consistent with the city's general plan or its elements the local coastal plan or any other applicable plans;
3. That the site is not physically suitable for the type of development;
4. That the site is not physically suitable for the proposed density of development;

5. That the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
6. That the design of the subdivision or the type of improvements is likely to cause serious public health problems;
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.
8. That the discharge of waste water, including sewage and storm water runoff, from the proposed subdivision will result in a violation of existing water quality requirements prescribed by the regional water quality control board.

**Evidence: (RESIDENTIAL COMPONENT)** The proposed tentative map is consistent with the City's Land Use Element, its Local Coastal Plan and the City's Land Use Map. As conditioned, the proposed residential component complies with the Half Moon Bay Local Coastal Program Land Use Plan Commercial General designation and the development standards prescribed in the C-D (Commercial Downtown) Zoning District. The site is physically suitable for the type and density of development. The design of the subdivision and its associated improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat since mitigation measures have been incorporated into the design. The design of the subdivision incorporates adequate infrastructure and site improvements to avoid or reduce the likelihood of serious public health problems or violate existing water quality requirements prescribed by the regional water quality control board. The design and associated improvements, as conditioned, will not conflict with any public access or use easements.

**Evidence: (COMMERCIAL COMPONENT)** As proposed, the commercial lot 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. The contemplated second driveway between the existing shopping center accessway and the proximity of the riparian corridor to the north is infeasible. A stand of 19 Cypress trees border the south edge of the property creates insufficient access to the remainder lot. Accordingly, it is Staff's position that, as proposed, the commercial lot is not physically suitable for development and Staff recommends that development of the commercial lot and therefore, approval of the application, be conditioned upon a joint driveway with the southerly neighbor.

7. **CEQA – The project is consistent with CEQA guidelines and will not have a significant effect on the environment.**

**Evidence:** The IS/MND was released for public consideration and comment from March 15, 2012 through April 13, 2012. The City received written comments on the MND during the public review period and such comments have been included and responded to in the final Mitigated Negative Declaration and have been presented to the Planning Commission. Following project approval, a Notice of Determination (NOD) will be posted by City staff with the County of San Mateo Office of the Recorder, consistent with CEQA requirements.

The mitigation measures contained in the IS/MND serve to mitigate any and all potentially significant environmental impacts that have been established either by threshold of significance in the IS/MND, incorporated through comments received on the IS/MND by responsible agencies, or by direction of the Planning Commission. All mitigation measures have been incorporated into the conditions of approval that accompany this report.

**EXHIBIT B  
CONDITIONS OF APPROVAL  
PDP-005-11**

**Tentative Subdivision Map, Coastal Development Permit, Lot Line Adjustment and Use Permit to divide two parcels (Assessor's Parcel Numbers: 056-150-010 and 056-150-120) totaling 5.5 acres into 12 residential lots and one remainder lot with associated improvements, including utilities located in the C-D (Commercial Downtown) Zoning District**

**Authorization:** Approval of this permit authorizes the Applicant and/or the Applicant's heirs, successors or assigns (hereinafter referred to as "Applicant") to subdivide two parcels totaling 5.5 acres into 12 residential lots and remainder lot and construct all associated improvements, including but not limited to a private road, access improvements, utilities, drainage, hydrants, water lines and sewer laterals, street lights and tree installation as shown on the plans with a City date stamp of April 24, 2012, except as modified by the conditions of approval set forth herein.

**A. The following General Conditions shall be completed prior to the issuance of ANY permits:**

1. **ACCESS TO PROPOSED REMAINDER LOT.** Access to the proposed remainder lot of the subject property via State Route 1 shall occur through a joint driveway with the southerly neighbor. Applicant shall provide evidence of authorization from adjacent property owner(s) to the City that establishes a right to construct a joint driveway and related improvement prior to, or concurrent with, any grading or building permit application. \_\_\_\_\_ (Planning/Public Works)
2. **NO TREE REMOVAL.** The existing 19 Cypress Trees located on the south border of the project shall not be removed as part of this project but shall be maintained during construction activities for the residential development. Long term health of the root ball of these Cypress trees be determined by a licensed arborist, by the applicant. \_\_\_\_\_ (Planning)
3. **REMAINDER LOT MAINTENANCE.** The applicant shall be responsible for the long term maintenance of the remainder lot. \_\_\_\_\_ (Planning/Code Enforcement)
4. **MITIGATION MONITORING AND REPORTING PROGRAM.** No Final Subdivision Map for the subject property shall be approved and no Grading Permit, Building Permit, sewer connection, water connection, or Occupancy Permit from the City of Half Moon Bay shall be approved until the Mitigation Monitoring and Reporting Program (April 2012) has been recorded and the estimated Mitigation Monitoring and Reporting Program fee has been paid. \_\_\_\_\_ (Planning)

The following conditions of approval identify the mitigation measures recommended specifically for the proposed project. The mitigation measures are derived from the Initial Study/Mitigated Negative Declaration (March 2012) prepared for the proposed 320 Church Street Project.

**MM 4.1d-1**

**Aesthetics/Visual Resources**

The project applicant shall implement the following mitigation measures to reduce impacts associated with increased nighttime lighting:

- Light fixtures, including roadway illumination and lighting for commercial uses, shall be the minimum height needed for public safety and shall be shielded to downcast light to prevent glare on adjacent properties.
- Illuminated entries and signs shall utilize direct lighting low to the ground and be limited to only the immediate vicinity of the entry.
- Landscape lighting shall be unobtrusive and shielded to prevent glare.

**MM 4.3d-1**

**Air Quality**

The project applicant shall specify in project plans the implementation of BAAQMD's basic construction mitigation measures from Table 8-1 of the BAAQMD's CEQA Guidelines (described under b) above). The measures shall be implemented as necessary to adequately control dust. In addition, the following measures shall also be implemented in order to reduce the emissions of toxic pollutants generated by heavy-duty diesel-powered equipment during construction.

- a. Keep all construction equipment in proper tune in accordance with manufacturers' specifications.
- b. Use late-model heavy-duty diesel-powered equipment during construction to the extent that it is readily available in the San Francisco Bay Area.
- c. Use diesel-powered equipment that has been retrofitted with after-treatment products (e.g., engine catalysts) to the extent that it is readily available in the San Francisco Bay Area.
- d. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment operating and refueling at construction sites to the extent that it is readily available and cost effective in the San Francisco Bay Area. (This does not apply to diesel-powered trucks traveling to and from the site.)

e. Utilize alternative-fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.

f. Limit truck and equipment idling time to 5 minutes or less.

g. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.

Timing/Implementation:

Enforcement/Monitoring:

**MM 4.4.a-1a**  
**Biological Resources**

Prior to any vegetation removal or ground-disturbing activities, focused surveys shall be conducted to determine the presence of fragrant fritillary, which has the potential to occur in the BSA. Surveys shall be conducted in accordance with CDFG *Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities* (CDFG 2000). These guidelines require rare plant surveys to be conducted at the proper time of year when rare or endangered species are both "evident" and identifiable. Field surveys shall be scheduled to coincide with known blooming periods and/or during periods of physiological development that are necessary to identify the plant species of concern. With regard to this species, the rare plant surveys should be conducted between February and April to identify the plant during its blooming period. If no fragrant fritillary is found within the project footprint, then the project will not have any impacts to the species and no additional mitigation measures are necessary.

**MM 4.4a-1b**

If fragrant fritillary is present within the BSA, a Worker Environmental Awareness Program (WEAP) shall be implemented to educate construction workers about the presence of special-status species or other sensitive resources in and near the BSA, and to instruct them on proper avoidance, required measures and practices for protecting biological resources, and contacts and procedures in case species are injured or encountered during construction.

**MM 4.4a-1c**

If fragrant fritillary is found on-site and cannot be avoided, the City shall consult with the USFWS and/or

the CDFG, as applicable, to determine appropriate avoidance and mitigation for special-status plants, which may include, but are not limited to the following.

- Efforts should be made to salvage portions of the habitat or plant populations that will be lost as a result of implementation of the proposed project.

- Transplant the plants that would be adversely affected by the proposed project for either re-establishment after construction is complete or for planting in a new area of the riparian corridor in appropriate habitat.

- A propagation program should be developed for the salvage and transfer of rare, threatened, or endangered plant populations from the project site before the initiation of construction activities. Permits may be required from the CDFG or the USFWS, which will ensure that certified biologists are involved in the propagation and transport of rare, threatened, or endangered plant species. (Note: Propagation methods for the salvaged plant population must be developed on a case-by-case basis and must include the involvement of local conservation easements/preserves/open space, where applicable). The propagation and transfer of individual plant species must be performed at the correct time of year and successfully completed before the project's construction activities eliminate or disturb the plants and habitats of concern.

**MM 4.4a-2a**

All future development on the project site shall comply with the relevant City municipal ordinances and design standards, including the City's LCP/LUP.

**MM 4.4a-2b**

All future development on the project site shall be sited outside of the Pilarcitos Creek riparian corridor and its riparian buffer zone.

**MM 4.4a-2c**

All future development on the project site shall comply with the applicable San Francisco Bay Municipal Regional Stormwater Permit (San Francisco Bay RWQCB 2009) and San Mateo Countywide Water Pollution Prevention Program new development performance standards (SMCWPPP 2003), including low impact development (LID) techniques, to address both soluble and insoluble stormwater runoff pollutant discharges and to prevent increases in runoff flows from new development projects.

**MM 4.4a-3a**

If construction activities occur within the nesting season (typically February 1 to August 30), then preconstruction surveys for nesting raptors and migratory birds shall be conducted by a qualified biologist up to two weeks prior to the start of construction activities, including vegetation clearing. The qualified biologist shall survey the construction zone and a 250-foot radius surrounding the construction zone in suitable habitat, where feasible, to determine whether the activities taking place have the potential to disturb or otherwise harm nesting birds.

**MM 4.4a-3b**

If an active raptor nest is located within a 250-foot radius around the construction zone, including staging areas, or if an active migratory bird nest is located within a 50-foot radius and construction must take place during the breeding season, a buffer zone shall be established by a qualified biologist and confirmed by the appropriate resource agency. A qualified wildlife biologist shall monitor the nest to determine when the young have fledged and submit monthly monitoring reports to the City Planning Department throughout the nesting season on the status of the nest. The biological monitor shall have the authority to cease construction if there is any sign of distress to the raptor or migratory bird. Reference to this requirement and the MBTA shall be included in the construction specifications.

**MM 4.4a-5**

A USFWS-approved biologist will survey the project site two weeks before the onset of work activities. If any life stage of the California red-legged frog is detected, construction activities shall not be allowed to commence until the USFWS and the City reach an appropriate level of consultation. During project construction activities, all trash that may attract predators will be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris will be removed from the work area. All refueling, maintenance, and staging of equipment and vehicles will occur at least 60 feet from riparian habitat or water bodies and not in a location from where a spill would drain directly toward aquatic habitat. The monitor will ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the City will ensure that the contractor's stormwater pollution prevention plan (SWPPP) includes provisions for prompt and effective response to any accidental spills. All workers will be informed of the importance of preventing spills and of the appropriate measures to take should a



spill occur. To control sedimentation during and after project implementation, the City will implement best management practices (BMPs) outlined in any authorizations or permits, issued under the authorities of the Clean Water Act that it receives for the specific project. If BMPs are ineffective, the City will attempt to remedy the situation immediately.

**MM 4.4a-6**

A USFWS-approved biologist shall survey the construction footprint immediately before the onset of activities. Any San Francisco garter snakes shall be allowed to leave the work area of their own accord and shall be monitored as practical by the biologist to ensure they do not reenter the construction footprint. During project activities, all trash that may attract predators will be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris will be removed from work area. All refueling, maintenance, and staging of equipment and vehicles will occur at least 60 feet from riparian habitat or water bodies and not in a location from where a spill would drain directly toward aquatic habitat. The monitor will ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the City will ensure that the contractor's SWPPP includes provisions for prompt and effective response to any accidental spills. All workers will be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur. To control sedimentation during and after project implementation, the City will implement best management practices outlined in any authorizations or permits, issued under the authorities of the Clean Water Act that it receives for the specific project.

**MM 4.4a-7**

Consistent with the City's Municipal Code Chapter 17.40, the applicant shall obtain a permit from the City to remove the cypress trees and mitigate for this loss by replacing removed trees on a one-for-one basis with minimum size twenty-four inch box specimens. Replacement trees shall be planted on site. Replacement trees shall be the same or a comparable species in terms of height and canopy.

**MM 4.5abc-1**

**Cultural/Historic Resources**

If buried historic, archeological, and/or paleontological resources are inadvertently discovered during ground-disturbing activities on the project site, work would stop in that area and within 100 feet of the find until a qualified

archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City and other appropriate agencies. In addition, if any finds (i.e. dark, friable soils; charcoal; obsidian or chert flakes; grinding tools; shell fragments; or deposits of bone, glass, metal, ceramics, or wood) are discovered within Caltrans right-of-way, the District 4 Office of Cultural Resources shall be contacted immediately. Avoidance is preferable, but if a resource cannot be avoided then recovery of the feature using appropriate archaeological methods would be warranted

**MM 4.6a-1**  
Greenhouse Gas

Prior to issuance of building permits, the project applicant shall specify on the final project plans implementation of BAAQMD- recommended construction-related measures to reduce GHG emissions during construction activities. The proposed project shall also implement the following measures or identify alternative measures to reduce construction-related GHG emissions, as feasible:

- 1) Use of alternative-fueled (e.g., biodiesel, electric) construction vehicles/equipment to the maximum extent possible;
- 2) Use of local construction materials (within 100 miles) to the maximum extent possible; and
- 3) Recycle construction waste and demolition materials to the maximum extent possible.

**MM 4.7a-1**  
Geology & Soil

Prior to issuance of each building permit, the project applicant shall submit plans to the City of Half Moon Bay for review and approval demonstrating project compliance with the 2010 California Building Standards Code (or most recent version) seismic requirements and the recommendations of a design-level geotechnical investigation. All soil engineering recommendations and structural foundations shall be designed by a licensed professional engineer. The approved plans shall be incorporated into the proposed project. All on-site soil engineering activities shall be conducted under the supervision of a licensed geotechnical engineer or certified engineering geologist.

**MM 4.9af-1**  
Hydrology & Water Quality

Prior to approval of final maps and improvement plans, the project applicant shall prepare and submit a design-level drainage study, which shall include more precise calculations of stormwater runoff for small/frequent

storms as well as flood-level events based on the actual structures proposed (site management). In addition, best management practice sizing of drainage structures shall be included. The study shall demonstrate and identify the specific reduction measures consistent with C.3 Guidance and quantify reductions in stormwater flows. All measures must be identified on final maps. All ongoing maintenance and operational compliance of C.3 facilities shall be addressed through the formation of a Property Owner's Association or similar entity with financial responsibility.

**MM 4.12acd-1**  
Noise

The following noise attenuation requirements shall apply to all construction activities associated with the project:

- Construction activities shall be limited to between the hours of 7 AM and 6 PM on weekdays, 8 AM and 6 PM on Saturdays, and 10 AM and 6 PM on Sundays and holidays.
- All construction equipment shall use noise-reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.
- Construction staging and heavy equipment maintenance activities shall be performed a minimum distance of 100 feet from the nearest off-site residence, unless safety or technical factors take precedence.
- Stationary combustion-driven equipment such as pumps or generators operating within 100 feet of any off-site residence shall be shielded with a noise protection barrier.

**MM 4.12acd-2**

Prior to approval of final maps, the project applicant shall incorporate noise attenuation measures (barriers) into the site plan/subdivision design to reduce noise levels at exterior residential lots to less than 60 dB CNEL. Such measures shall be ideally located between the remainder lot and residential lots to shield residences from both roadway (Highway 1) and commercial noise sources. Measures may consist of berms, fencing, or masonry walls, or a combination of features, at an appropriate height. Noise attenuation measures shall be designed for aesthetics as well as function to avoid any negative visual impacts. Effectiveness and height of the noise barrier shall be demonstrated to the City in the form of an acoustical evaluation prepared by a qualified professional.

3. CONSTRUCTION & GRADING PLANS. The Conditions of Approval for this project shall be provided on the cover page of any building or grading permit application submittal. All plans, specifications, engineering calculations, diagrams, reports, and other data for construction of the building and required improvements shall be submitted with the appropriate permit application to the Building Department for review and approval. Computations and back-up data will be considered a part of the required plans. Structural calculations and engineering calculations shall be prepared, wet stamped, and signed by an engineer or architect licensed by the State of California.  
\_\_\_\_\_ (Building)
4. CONFORMANCE WITH APPROVED PLANS. Development shall be in substantial conformance with the approved plans, with a City date stamp of April 28, 2011 except for any changes that may be required by these conditions of approval. The Planning Director and City Engineer shall review and approve any deviation from the approved plans. In the event that the Planning Director determines that any proposed changes warrant further Planning Director review and approval, the applicant shall submit the revised plans for consideration at a public hearing before the Planning Commission.  
\_\_\_\_\_ (Planning)
5. IMPROVEMENT PLANS Applicant shall furnish the following Improvement Plans to the Planning Department:
  - A. Three (3) copies of a grading plan consisting of typical cross sections and finished grades of all lots, roads, streets and highways in the proposed new subdivision.
  - B. Three (3) copies of plans and profile drawings of all streets, including sewer and drainage improvements; utilities may be shown in plan only. All tracings or duplicate tracings shall be filed with the City Engineer.  
Three (3) copies of Final Improvement Plans and Specifications. Scale of plans shall be one inch = 40 feet horizontally; one inch = four feet vertical in profile, unless otherwise approved by the City Engineer.  
  
Three (3) copies of all contract construction drawings.
  - C. Estimated costs of all infrastructure improvements or any other conditions or approval of the subdivision. Such estimates to be verified by the City Engineer.
  - D. Any other pertinent information required by the Conditional Approval of the Planning Commission, City Council, or by the City Engineer, including a soils report on previously filled areas or areas proposed to be filled; and in all street and alley rights-of-way at intervals not exceeding one thousand (1,000) feet and/or any change in soil conditions. The soils report and analysis will be in accordance with methods approved by the State of California for "R" values, sieve analysis and said equivalent.
  - E. No final map shall be submitted for consideration of the City Council until the improvement plans have been approved by the City Engineer. No

improvements plans shall be considered finally approved until approval of the final map by the City Council, \_\_\_\_\_ (Planning/City Engineer)

- F. No building Permits shall be issued for residences until all infrastructure has been installed or bonded for to the satisfaction of the City Engineer, \_\_\_\_\_ (Planning/City Engineer)

**B. The following Conditions shall be completed prior to the issuance of a Grading Permit:**

1. SITE PREPARATION, STORAGE OR PLACEMENT OF CONSTRUCTION MATERIALS, EQUIPMENT OR VEHICLES. No lot site grading or preparation nor storage or placement of construction materials, equipment or vehicles shall take place prior to submittal and approval of grading plans by the Public Works Department. Any earth movement on or off the site in excess of 50 cubic yards shall require the submittal of a grading plan for review and approval by the Public Works Department. Lot Grading includes, but is not limited to, any leveling, scraping, clearing, or removal of lot surface area. Materials, Equipment, and Vehicles include, but are not limited to:
  - a) All masonry, wood, and steel construction materials;
  - b) All construction-related equipment and storage containers;
  - c) All construction-related vehicles including temporary trailers  
\_\_\_\_\_ (Building/Public Works)
2. AIR QUALITY MEASURES: The project applicant shall specify in project plans the implementation of BAAQMD's basic construction mitigation measures from BAAQMD's CEQA Guidelines. The measures shall be implemented as necessary to adequately control dust. In addition, the following measures shall also be implemented in order to reduce the emissions of toxic pollutants generated by heavy-duty diesel-powered equipment during construction.
  - a. Keep all construction equipment in proper tune in accordance with manufacturers' specifications.
  - b. Use late-model heavy-duty diesel-powered equipment during construction to the extent that it is readily available in the San Francisco Bay Area.
  - c. Use diesel-powered equipment that has been retrofitted with after-treatment products (e.g., engine catalysts) to the extent that it is readily available in the San Francisco Bay Area.
  - d. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment operating and refueling at construction sites to the extent that it is readily available and cost effective in the San Francisco Bay Area. (This does not apply to diesel-powered trucks traveling to and from the site.)
  - e. Utilize alternative-fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.
  - f. Limit truck and equipment idling time to 5 minutes or less.
  - g. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.

2. STORM WATER POLLUTION PREVENTION PLAN (SWPPP). The Applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction period of the project. Since the project will disturb more than one acre of land, the project applicant will be required to apply to the State Water Resources Control Board (SWRCB) for a construction-activities NPDES permit. Permits are obtained by submitting a Notice of Intent (NOI) to the SWRCB and preparing a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP must be kept on-site throughout the improvement period. It is a revisable document that locates the site, identifies potential sources of pollutants, and details management practices and water quality control measures to be implemented during the construction phase and after development has occurred. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly-designed centralized storage areas that keep these materials out of the rain. BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season because disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control (i.e., keeping sediment on the site). End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Ingress and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring shall be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable in runoff." \_\_\_\_\_ (Public Works)
3. STORMWATER POLLUTION PREVENTION PROGRAM (STOPPP). The Applicant shall fully comply with the San Mateo County Countywide Stormwater Pollution Prevention Program (STOPPP) which maintains compliance with the NPDES Storm Water Discharge Permit. Responsibilities include, but are not limited to, designing Best Management Practices (BMPs) into the project features to reduce potential impacts to surface water quality associated with operation of the project. During construction, the following San Mateo County Storm Water Pollution Best Management Practices (BMPs) shall be employed to ensure that water quality of surface runoff is maintained and no siltation of downstream waterways would occur:

- All project grading would take place in the dry season between April 1 and October 31 to minimize immediate erosion/siltation effects.
  - Construction materials and waste shall be handled and disposed of properly in compliance with applicable law to prevent their contact with stormwater.
  - Discharge of all potential pollutants, including pavement cutting wastes, paints, concrete, petroleum products, chemicals, washwater or sediments, and non-stormwater discharges to storm drains and watercourses shall be controlled and prevented.
  - Sediment controls such as straw mulch, silt fences, sediment basins or traps and/or other measures shall be employed during construction.
  - Tracking dirt or other materials offsite shall be avoided and offsite paved areas and sidewalks shall be cleaned regularly using dry sweeping methods.
  - The contractor shall train and provide instruction to all employees and subcontractors regarding construction BMPs. \_\_\_\_\_ (Public Works)
4. **DRAINAGE PLAN.** A storm drainage plan prepared by a registered civil engineer licensed in the State of California and incorporating all of the mitigation measures set forth in the Final MND for this development and all of these Conditions of Approval shall be submitted as a part of the initial Final Map submission, or as otherwise approved by the City Engineer. The plan is to include all areas tributary to the site and all information; pertinent to the capability of the proposed storm drainage facilities to convey the expected runoff from the site. Additionally, the drainage plan and the erosion/dust control plan provides for the winterization of the site for the project to the satisfaction of the City Engineer. The Drainage Plan shall demonstrate that all stormwater is retained onsite with no offsite release (100 percent containment). Drainage improvements shall be carried out to the satisfaction of the Director of Public Works or City Engineer. The Drainage Plan shall include a drainage system maintenance program. The applicant shall prepare and submit an Operations and Maintenance for the drainage facilities to the City for review and approval. \_\_\_\_\_(Planning/Public Works)

**C. The following apply during the grading/improvement phase of the project:**

1. **STORMWATER DISCHARGE DURING IMPROVEMENTS.** During Improvement, the Applicant shall minimize the transport and discharge of storm water from the project site by incorporation of the following measures into the construction site practices:
  - a) Identify all storm drains, drainage swales and creeks located near the construction site and make sure all subcontractors are aware of their locations to prevent pollutants from entering them. Use silt fence barrier, straw bale barrier, sand bags, brush or rock filter or other appropriate measures, as necessary to minimize the quantity of sediment laden runoff from the site.
  - b) Stabilize any areas that have been stripped of vegetation, and maintain erosion control measures between October 15 and April 15.

- c) Ensure that erosion control by re-vegetation is performed just prior to the rainy season unless on site irrigation is provided. Select seed to minimize fertilizer and water use. Limit watering to the amount and frequency, which can be absorbed on site.
  - d) Avoid stockpiling of soils or materials as much as possible. All piles of sand, dirt and similar material must be 10 feet away from any catch basin. Cover with a waterproof tarp during periods of rainy weather to control runoff. Monitor the site for minimization of erosion and sediment runoff every 24 hours during and after every storm event. Before it rains, sweep and remove materials from surfaces that drain to storm drains, creeks, or channels.
  - e) Never clean brushes or rinse paint containers into a street, gutter, storm drain, or creek. Recycle, return to supplier or donate unwanted water-based (latex) paint. Dried latex paint may be disposed of in the garbage. Unwanted paint (that is not recycled), thinners, and sludge must be disposed of as hazardous waste.
  - f) Avoid cleaning, fuelling, or maintaining vehicles on site, except in an area designated to contain and treat runoff. Clean up leaks, drips, and other spills immediately so they do not reach a catch basin. Never wash down pavement or surfaces where materials have spilled. Use dry cleanup methods whenever possible.
  - g) Avoid mixing excess amounts of fresh concrete or cement mortar. Whenever possible, return contents of mixer barrel to the yard for recycling. Dispose of small amounts of excess concrete, grout, and mortar in the trash.
  - h) Practice source reduction. Reduce waste by only ordering the amount you need to finish the job. Recycle leftover materials whenever possible. Materials such as concrete, asphalt, scrap metal, solvents, degreasers, cleared vegetation, paper, rock, and vehicle maintenance materials such as used oil, antifreeze, and batteries are recyclable.
  - i) Inspect portable toilets for leaks. Do not place on or near storm drain outlets. Be sure the leasing company adequately maintains, promptly repairs, and replaces units as needed. \_\_\_\_\_ (Building/Public Works)
2. STORM DRAINAGE PLAN IMPLEMENTATION. All drainage from individual lots shall drain in accordance with the final MND, the appropriate National Pollutant Discharge Elimination System (NPDES) and Best Management Practice (BMP) as described herein. \_\_\_\_\_ (Building/Public Works)
3. HOURS OF CONSTRUCTION. The following noise attenuation requirements shall apply to all construction activities associated with the project:
- Construction activities shall be limited to between the hours of 7 AM and 6 PM on weekdays, 8 AM and 6 PM on Saturdays, and 10 AM and 6 PM on Sundays and holidays.



- All construction equipment shall use noise-reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.
  - Construction staging and heavy equipment maintenance activities shall be performed a minimum distance of 100 feet from the nearest off-site residence, unless safety or technical factors take precedence.
  - Stationary combustion-driven equipment such as pumps or generators operating within 100 feet of any off-site residence shall be shielded with a noise protection barrier.
4. CONSTRUCTION TRAILERS. Temporary construction trailers are permitted as accessory uses in conjunction with the development of this site, subject to the following conditions:
- a) The construction trailer shall be used as a temporary construction office only.
  - b) Neither sanitation facilities nor plumbed water is permitted within the trailer.
  - c) No overnight habitation of the construction trailer is permitted.
  - d) No construction trailers are permitted on site prior to building or grading permit issuance.
  - e) The construction trailer shall be removed from the site within ten days of issuance of a Certificate of Occupancy or the final building inspection of the last residence, whichever occurs first. The construction trailer may be converted to a sales office upon approval of a Use Permit. \_\_\_\_\_ (Building/Planning)
5. HAZARDOUS MATERIALS. Any materials deemed hazardous by the San Mateo County Department of Health that are uncovered or discovered during the course of work under this permit shall be disposed in accordance with regulations of the San Mateo County Department of Health. \_\_\_\_\_ (Building/County Health)
6. GRADING OR GEOTECHNICAL WORK. All grading or geotechnical work required shall be carried out according to the recommendations of the Applicant's geotechnical consultant approved by the City Engineer. A Grading and Excavating permit shall be required for all grading in accordance with Section 14.24.030 of the Half Moon Bay Municipal Code, where the work to be done is included within any one or more of the following provisions:
- a) Fill will exceed two feet in vertical depth at its deepest point measured from the pre-existing ground surface;
  - b) An excavation will exceed two feet in vertical depth at its deepest point;
  - c) Grading will exceed an area of five thousand square feet;
  - d) Grading exceeds five hundred cubic yards;
  - e) That in the event it becomes necessary to either import or export more than 500 cubic yards of material, the developer shall submit detailed haul routes and schedules to the City Council for approval; and,

- f) All construction, grading, and site preparation activities shall be in conformance with the requirements of the Air Quality Management District rules and regulations governing these activities. \_\_\_\_\_ (Building/Public Works)
7. REDUCE DUST. Unless the site is watered to the satisfaction of the City Engineer, grading activities and travel on unpaved areas will be terminated if average hourly wind speeds exceed 20 mph to reduce dust lofting when turbulent winds may carry large dust particles for long distances. \_\_\_\_\_ (Building/Public Works)

**D. The following Conditions shall be fulfilled prior to approval of the Final Subdivision Map:**

1. FINAL MAP CONTENTS. The Final Map shall be in complete form and accompanied by the traverse closure computations, map checking fee and all other items required by the City Engineer, consistent with Approved Plans. The Final Map shall include a name to be approved by the City Council for any new streets that are not extensions of existing named streets and an Irrevocable offer to dedicate all necessary public rights-of-way and easements. The submittal shall include the latest title report guarantee of the property. All record owners of property within the boundaries of this Subdivision shall sign the Final Map prior to its approval for recordation. All City and Agency Approval Signatures shall be provided on the front sheet of the Final Map for each Agency Approval. Specifically, the City Engineer will require the applicant to submit the following details with the final map submittal:
- Geotechnical study report acceptable to the city Engineer verifying suitability of the proposed lots for the proposed use.
  - Traffic study conducted by qualified professional identifying traffic impacts of the proposed subdivision development on existing streets and proposed mitigation measures in a form acceptable to the City and as per the scope approved by the City.
  - Biological study report establishing riparian set-back limit, identifying potential impacts of the proposed development on existing habitat and providing recommended mitigation measures.
  - Number and location of lots shown on the approved tentative map may change as warranted by the aforementioned studies.
  - A property-owners association must be created if the proposed street and storm drain facilities are not as per the City's standards or are not acceptable for City's maintenance.
  - Street width shall be not less than 28 feet if parking is proposed or required on one side and 36 feet if parking is proposed or required on both sides. The driveways shall be located such that maximum numbers of parking spaces are provided on- street. Provide turn around at the street end in compliance with the requirements of the Coastside Fire District.
  - Sidewalks fronting all proposed lots.
  - Street illumination.
  - Public utilities to serve each lot as per the requirements of the utility agency. All utilities shall be installed underground. All utilities shall be sized as per the calculations approved by the utility owners and exceeding the minimum required sizes. The storm drains in the roadway shall be not less than 12

inch in diameter and sanitary sewer mains shall be not less than 6 inch diameter. These shall be of materials providing adequate strength to withstand anticipated loads.

- Sanitary sewer main serving multiple lots must be offered for the City's maintenance and built as per the city standards per plans approved by the City Engineer. The sewer main must flow by gravity to the City's sewer collection system.
- The property owners, at no cost to City, shall maintain all trees planted along the streets.
- The location of the trash enclosure on each lot shall be reviewed and agreed to by the trash hauler.
- Provide written notices to affected residents, public and others at least two business days in advance of any planned disruption to pedestrian or vehicular traffic, parking and public service facilities.

2. FINAL MAP FORM. All material necessary to present the subdivision Final Map to the City Council shall be submitted to the City Engineer at least four (4) weeks prior to the presentation. The material shall be submitted in a form satisfactory to the City Engineer and City Attorney. \_\_\_\_\_ (City Engineer/City Attorney)
3. OFFERS OF DEDICATION. Applicant shall offer right-of-way dedication on Church Street, if deemed required by City Engineer, in order for widening, improvements, and private road for public access as may be required. All such public utilities easements that may be a portion or within this subdivision as required by the City's Local Coastal Plan and/or City Engineer shall be clearly indicated on the Final Map. \_\_\_\_\_ (City Engineer)
4. COASTSIDE COUNTY WATER DISTRICT. All domestic water supplied to the project shall be from the Coastsides County Water District. Prior to Final Map Approval, the Applicant shall submit plans for the water connections to the Coastsides County Water District Engineer which shall be approved by all required parties. Furthermore, such security as deemed necessary by the Water District shall be required to insure installation of the proposed facilities. The Applicant shall submit evidence to the Planning Director from the Coastsides County Water District indicating that adequate domestic water supplies and fire flows are available for all of the proposed uses. In the event it is determined that insufficient water is available to serve the needs of the proposed uses on the site, the Applicant shall submit a construction phasing program based upon the availability of future water supplies for approval by the City Council. All utilities shall be connected prior to occupancy. \_\_\_\_\_ (Building)
5. ADEQUATE CAPACITY ASSURED. Prior to approval of the Final Map, the Applicant shall provide "will serve" letters and documentation to the Public Works Department to assure that adequate capacity exists and is available for all utilities serving the project. \_\_\_\_\_ (Public Works)

6. IMPROVEMENT PLANS. The Applicant shall submit improvement plans for the public improvements, including a grading and drainage plan and an erosion/dust control plan that also includes provisions for the winterization of the site as part of the initial Final Map submission. The plans shall be in complete form and in accordance with the standards established by the California Subdivision Map Act, the City's Municipal Code, including the Ocean Colony Planned Unit Development Ordinance as amended, and the City Engineer regarding format and design information required.  
\_\_\_\_\_ (Planning/City Engineer)
7. AGENCY PERMITS. Any permits required by the Coastal Commission, CalTrans, the California Department of Fish & Game, the US Army Corps of Engineers, or other agency with permitting jurisdiction over the subject property shall be obtained by the Applicant prior to approval of a Final Map. \_\_\_\_\_ (City Engineer)
8. CALTRANS ENCROACHMENT PERMIT. In the event a joint driveway with southerly neighbor for State Route 1 is not feasible, the applicant shall submit a completed encroachment permit applicant, environmental documentation and five (5) sets of plans clearly indicating state ROW to Caltrans. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment process. (Public Works)
9. U.S. ARMY CORPS OF ENGINEERS PERMIT. Applicant shall submit a completed application for compliance of Section 404 of the Clean Water Act (CWA) (33 U.S. C. Section 1344) to US. Army Corps of Engineers. (Planning)
10. PAYMENT OF FEES. The Applicant shall pay all outstanding fees and charges due and make any necessary escrow deposits prior to approval of a Final Map. \_\_\_\_\_ (Planning/City Engineer)
11. SUBDIVISION IMPROVEMENT AGREEMENT. If, at the time of approval of the Final Map, any required public improvements have not been completed and accepted by the City, the Applicant shall cause to be prepared and shall, in accordance with the Subdivision Map Act, enter into a Subdivision Improvement Agreement satisfactory to the City Council covering all of the conditional items specified herein or as required by law. \_\_\_\_\_ (City Engineer)
12. STANDARDS, DETAILS, AND SPECIFICATIONS. The public improvements shall be in accordance with the City of Half Moon Design Standards, Design Details, and standard Specifications, and any conditions of approval set forth herein, unless specifically waived by the City Council as part of this approval. \_\_\_\_\_ (Public Works)
13. ASSESSMENT REAPPORTIONMENTS. The Applicant shall prepare, or cause to be prepared, any assessment reapportionments necessary for the subdivision, including any Half Moon Bay Fire CFD. The reapportionments shall confirm to the lots created by the subdivision such that each lot shall be a separate reapportionment. Prior to approval of the Final Map, the Applicant shall submit any and all completed

reapportionment diagrams and legal documents to the City Engineer for review, distribution, and recording.

\_\_\_\_\_ (City Engineer)

14. ANNUAL REPORTS. The Applicant shall file annual reports with the Planning Director certifying that the mitigation measures have been incorporated into the project, implemented or maintained as a condition of project approval. If the required reports are not filed or the mitigation measures are not implemented, the City shall stop the project from continuing to be processed, constructed, and shall prohibit occupancy. The Planning Director shall use a Mitigation Monitoring Checklist to certify that the mitigation measures have been implemented. City staff monitoring dates shall generally be tied to project milestones such as Grading Permit; Improvement Plans, Final Subdivision Map recordation, Building and Occupancy Permits. \_\_\_\_\_ (Planning)
15. AFFORDABLE HOUSING REQUIREMENT. Applicant shall indicate on Final Map the location and number of dwellings that Very Low, Low, and Moderate Income Households can afford to rent or purchase. Or the applicant shall contribute an in lieu fee to an Affordable Housing Fund of an amount sufficient to provide affordable housing opportunities for these income groups. \_\_\_\_\_ (Planning)
16. PARK LAND DEDICATION/IN-LIEU OF FEE. Applicant shall have option to dedicate a portion of such land, pay a fee, or do both, for the purpose of providing park and recreational facilities to serve residents of the City. Only the payment of fees may be required in subdivisions containing fifty parcels or fewer. The basis for determining the total number of dwelling units is the number of the units permitted by the City on the property included in the subdivision at the time the final subdivision map is filed with the City Council for approval. \_\_\_\_\_ (Planning/City Engineer)
17. ADA STANDARDS. All improvements required by the Half Moon Bay Fire Protection District and Department of Public Works and Building shall be designed subject to ADA standards and the review and approval of the City Engineer and Fire Marshal. The Applicant shall complete all street improvements required by the Fire District and Public Works Department. \_\_\_\_\_ (Public Works/Building)
18. COMPLIANCE WITH COASTSIDE COUNTY FIRE PROTECTION DISTRICT. All requirements of the Half Moon Bay Fire Protection District shall be met. \_\_\_\_\_ (CCFD)
19. ENCROACHMENT PERMIT. An Encroachment Permit shall be required prior to any installation of utilities and any other required work within the public right-of-ways. \_\_\_\_\_ (Public Works)
20. DOMESTIC WATER LINES. The Applicant shall construct domestic water line facilities and appurtenances for service from the water utility. Water service from any interim well shall not be permitted. Low flow plumbing fixtures shall be used throughout the proposed project. A water pressure regulator shall be installed. The sanitary sewer line and lateral facilities for complete and adequate service for this parcel shall be connected to the public sewer lines. A cleanout is to be provided within three feet of the property line in the Public Right of Way. \_\_\_\_\_ (Public Works)

21. RELOCATING UTILITIES. Any public utilities within legal recorded public utility easements requiring relocation as a result of the construction of the building(s) or improvements under this permit shall be relocated at the owner's expense. \_\_\_\_\_  
(Building)
22. UNDERGROUND UTILITIES. All utilities shall be installed underground. \_\_\_\_\_  
(Building/Public Works)
23. DAMAGE TO STREETS. All work shall be undertaken in a manner that will prevent damage to public streets and utilities and that will maintain streets free and clear of any construction materials, debris, or mud. The applicant shall be responsible for restoring any damaged street improvements or utilities to the satisfaction of the City Engineer. Overlay the existing street with 2" thick asphalt concrete if three or more cuts are required. \_\_\_\_\_ (Public Works)
24. TREE REPLACEMENT PLAN. A Tree Replacement Plan shall be developed and implemented, per the City of Half Moon Bay Tree Ordinance, to mitigate the removal of any trees. The Plan shall identify: 1) number and species of trees to be removed; 2) number and species of trees to be planted; 3) specific planting locations; 4) schedules and methods for maintenance and monitoring to assure the success of the Plan; and 5) performance standards that shall require: a) survival of at least the same number of trees that were removed; and b) "normal" vigor and health of all trees planted. \_\_\_\_\_ (Planning/Building)

**E. The project is subject to the following permanent Conditions:**

1. PAYMENT OF COSTS. The Applicant shall include payment of 100 percent of the Planning Department staff costs, and the costs of any technical consultant services incurred during implementation of the Mitigation Monitoring and Reporting Program (MMRP). If the initial estimate exceeds the actual monitoring costs, the balance shall be refunded to the Applicant, and if the actual monitoring costs exceed the initial estimate, the Applicant shall pay the additional amount. \_\_\_\_\_ (Planning)
2. LONG-TERM MITIGATION MEASURES. Any Conditions of Approval that include long-term mitigation measures shall be recorded as deed restrictions on the property to notify successors in interest of the mitigation obligation. \_\_\_\_\_ (Planning)

**F. Validity and Expiration of Permits**

1. NOTICE OF FINAL ACTION. The Coastal Development Permit shall take effect 10 working days after receipt of the Notice of Final Action by the Coastal Commission. The Applicant shall submit a signed copy of these conditions of approval to the Planning Department before they can obtain a grading/encroachment permit. \_\_\_\_\_ (Planning)
2. COMPLETENESS AND ACCURACY. The Applicant shall be responsible for the completeness and accuracy of all forms and material submitted for this application. Any errors or discrepancies found therein may be grounds for the revocation or modification of this permit and/or any other City approvals. \_\_\_\_\_ (Planning)

3. EXPIRATION DATES:

- a) Coastal Development Permit: shall expire on the latest expiration date applicable to any other discretionary or ministerial permit or approval required for the development, including any extension granted for other permits or approvals;
- b) Tentative Subdivision Map: shall expire two years after final approval unless a final map is submitted for processing or the term of the map is otherwise extended in accordance with the Municipal Code.

\_\_\_\_\_ (Planning)

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

5. ENTITLEMENTS RUN WITH THE LAND. The Coastal Development Permit and Tentative Subdivision and run with the land and the rights and obligations hereunder, including the responsibility to comply with conditions of approval, shall be binding upon successors in interest in the real property unless or until such permits are expressly abandoned. \_\_\_\_\_ (Planning/City Attorney)

OWNER'S / APPLICANT'S CERTIFICATION:

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

OWNER(S) / APPLICANT(S):

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**THIS RESOLUTION AND RECOMMENDATION PASSED AND ADOPTED** by the  
City of Half Moon Bay Planning Commission at a duly noticed public hearing held on April  
24, 2012, by the following vote:

AYES, Commissioner Jonsson, Commissioner Conroy, Vice Chair Rosenblatt, Chair Roman  
NOES,  
ABSENT, Commissioner Les Deman  
ABSTAIN,

ATTEST:

  
\_\_\_\_\_  
Pat Webb, Interim Planning Director

APPROVED:

  
\_\_\_\_\_  
Tom Roman, Chair



**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE

45 FREMONT STREET, SUITE 2000

SAN FRANCISCO, CA 94105-2219

VOICE (415) 904-5260 FAX (415) 904-5400

TDD (415) 597-5885

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: John F. Lynch

Mailing Address: 2098 Touraine Lane

City: Half Moon Bay

Zip Code: 94019

Phone: (650) 726-9189

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

City of Half Moon Bay

2. Brief description of development being appealed:

Lot line adjustment, use permit, and tentative subdivision map to divide two parcels into 12 residential lots and one remainder lot, and associated improvements.

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

320 Church Street, Half Moon Bay. APN 056-150-010 and 056-150-120

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

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

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JUN 18 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

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

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

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

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

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

6. Date of local government's decision: June 5, 2012

7. Local government's file number (if any): PDP-005-11

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

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

a. Name and mailing address of permit applicant:

Gibraltar Capital  
Mr. Cameron Jeffs  
413 Main Street  
Half Moon Bay, CA 94019

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

(1)

Ed Love  
720 Main Street  
Half Moon Bay, CA 94019

(2)

Scott Frazer  
330 Purissima Street  
Half Moon Bay, CA 94019

(3)

James Benjamin  
400 Pilarcitos Avenue  
Half Moon Bay, CA 94019

(4)

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

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

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

On April 24, 2012, the Half Moon Bay City Council adopted a resolution approving a coastal development permit for a lot line adjustment, subdivision, use permit, tentative subdivision map and associated improvements for 5.8 acres abutting Pilarcitos Creek. The approved subdivision creates twelve residential lots and a remainder lot (intended for commercial use when entrance and egress rights are obtained) along with related improvement including streets and installation of utilities. The appellant spoke and wrote to the City Council on June 5, 2012 to raise concerns about the project's compatibility with the City's certified Local Coastal Program (LCP). The appellant asserts that the City-approved development does not conform to the LCP's policies and related ordinances addressing coastal hazards, biological resources, adequacy of services, or conformance with CEQA. Briefly:

- According to the map registered with the Office of Emergency Services, the parcels being subdivided are completely within the dam inundation zone for Pilarcitos Dam. Moreover, an indeterminate portion of the parcels are subject to inundation by Pilarcitos Creek during a 100-year storm event. Although no mitigation measures are included to mitigate flooding risk, and no study has been provided that demonstrates the dam failure hazard no longer exists or will be reduced or eliminated by improvements, the City found the project to be consistent with LCP policies 4-6, 4-7 and 4-8, with sections 30253 and 30256 of the Coastal Act (adopted as part of the LCP), and with section 18.38.045 of Half Moon Bay's zoning ordinance. The hydrology section of the IS/MND states the project would have no impact with respect to placing housing within a 100-year flood hazard area, and a less-than-significant impact with respect to exposure of people or property to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam.
- Chapter 3 of the City's certified LCP adopts policies and related sections of the City's zoning ordinance contain protections for maintaining and where feasible improving the biologic productivity of environmentally sensitive habitat areas, including protection of riparian corridors and wetlands. Additional protections are provided to habitats supporting or containing rare, endangered or unique species.

The biological assessment for this project properly acknowledges that both the riparian area and up-bank adjacent annual grassland provide habitat for the San Francisco garter snake (SFGS), the California red-legged frog (CRLF) and other species of concern. However, the conditions attached to the approved CDP treat these upland grasses not as habitat supporting or containing protected species, as required by LCP policy 3-1 but rather as less-protected buffer areas for the riparian corridor (fifty feet closest to riparian corridor), or as no ESHA at all. The area converted from up-bank grasslands to housing and lawns would constitute a permanent loss of SFGS and

CRLF habitat, a significant adverse impact which is prohibited under LCP policy 3-3. The project has not received guidance from the US Fish and Wildlife Service (USFWS) or the California Department of Fish and Game (CDFG), and the project is not a resource-dependent use, both required by LCP policy 3-4. The subdivision creates building entitlements on lots for which development would be inconsistent with protection of rare, endangered and unique species required by LCP policies 3-22 and 3-33. The subdivision also creates a lot whose only feasible building site may be within 20 feet of riparian vegetation, in violation of policy 3-12.

In addition, LCP policy 3-21, 3-32 and map-related ordinances requires habitats supporting or containing listed species to be added to the LCP's Sensitive Habitat Overlay and Zoning Ordinance's Coastal Resource Area maps, buffer areas to be established, and mitigation planning to conform to regulatory agency requirements. There is no evidence that such map updates or mitigation planning are occurring.

It should be noted that on June 12, 2012, in response to a Public Records Act request, appellant learned from an April 2001 biological survey that approximately two acres of the subject parcel(s) were illegally cleared of riparian habitat in June of 2000, and even more willow was removed a year or two earlier. The City notified the property owner at that time that a coastal development permit was required for restoration. PDP-005-11 does not discuss the settlement of these Coastal Act violations, including the restoration project's mitigation and monitoring requirements, and any compensating easements or other setbacks that would be imposed on future development in this area. In addition, the blackberry noted in the 2001 survey has been the subject of aggressive weed abatement, including a recent mowing up to the edge of the willows. When adjacent to an obvious riparian corridor, blackberry may be part of that riparian corridor, and are certainly refuge for SFGS and CRLF.

The City periodically approves weed abatement ordinances requiring the mowing of vegetation to create fire breaks on lots adjacent to open space. The coastal development permit for weed abatement approved in 2007 calls for mowing of vegetation to be avoided in coastal resource areas unless the Fire Chief determines that the removal of vegetation is necessary to protect an existing structure from fire hazard. In such cases, mowing is limited to the minimum required to reduce the fire hazard to an acceptable level. Although the IS/MND states that no wildland areas are adjacent to the project, the parcels have been subjected very aggressive vegetation removal. Approving development in habitat for rare, endangered and unique species, which encompass both the Pilarcitos Creek riparian zone and annual grasslands, and in adjacent buffer zones, creates a new conflict between fire safety and the biologic productivity of protected coastal resources. The resolution of that avoidable conflict would likely diminish the biologic productivity of the sensitive habitat area and its buffer zone, in violation of LCP policy 3-3.

In addition to the absence of comments from USFWS and CDFG, the National Marine Fisheries Service (NMFS) houses the Office of Protected Resources, which implements policies and regulations for issuance of permits and authorizations under the Endangered Species Act. Despite the presence of Pilarcitos Creek, which is Waters of the United States and critical habitat for steelhead and Coho salmon, a review of the project record indicates that the NMFS did not receive the biological report and request for comment. The NMFS received and responded to a request for comment in conjunction with a project on a tributary of Pilarcitos Creek.

- The City-approved project would result in the creation of new legal lots for residential development in an area that is highly constrained in terms of the availability of public services, including traffic capacity. The City's LCP includes strong protections for public access to the coast and specifies that new development shall not be permitted in the absence of adequate

infrastructure, including roads such as Highways 1 and 92. According to recent traffic analysis, the existing level of service on Highways 1 and 92, which are the primary access roads to the region's coastal areas, is rated at level of service F at numerous bottleneck sections. Level of service F is defined as heavily congested flow with traffic demand exceeding capacity, resulting in stopped traffic and long delays. This level of congestion on these highways significantly interferes with the public's ability to access the Half Moon Bay and San Mateo County coastal area. The City-approved project would create new legal lots for residential development without retiring an equal number of legally buildable undeveloped lots. Therefore, the City-approved project will cumulatively add to the level of congestion on Highways 1 and 92, further impacting the public's ability to access the coast. Further, the new lots would not be served by adequate public services, including traffic capacity, in conflict with LCP requirements.

A similar concern was raised by Commissioners Shallenberger and Zimmer of the California Coastal Commission in their February 2012 appeal of a smaller subdivision near the Pullman watercourse in Half Moon Bay.

- Chapter 18.38.030 of the City's Zoning Ordinance (which is incorporated into the certified LCP) requires geological and biological reports prepared for this project to be consistent with the California Environmental Quality Act (CEQA). As a consequence of the previously discussed deficiencies in the geological and biological sections of the IS/MND and associated reports:
  - The initial study reports "Less Than Significant Impact" with respect to exposure of people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam, and "No Impact" with respect to the placement of housing within a 100-year flood hazard area as mapped on a flood hazard delineation map or placement of structures within the 100-year flood hazard area. The unmitigated exposure for people or structures to dam inundation flows should have triggered a mandatory finding of significance, necessitating either project revision or the preparation of an Environmental Impact Report (EIR).
  - The take of protected species through loss of habitat, including not only riparian but also upland aestivation and sunning areas, should have triggered a mandatory finding of significance, necessitating either project revision or the preparation of an EIR.

The project is thus inconsistent with the impact assessment requirements of the LCP.

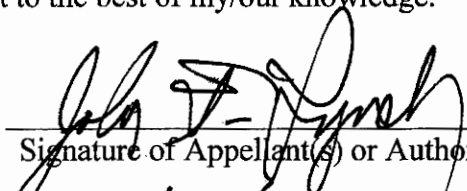
- LCP Policy 1-4 makes it clear that the City's approval cannot rest on consistency with selected policies, e.g., recognizing the riparian corridor and associated protections but not recognizing policies protecting habitat that contains or supports rare, endangered or unique species. Consistency with listed-species policies and with policies requiring adequate services and protection from hazards, for example, must also be recognized and satisfied.

For the above-stated reasons, the City-approved project is inconsistent with the certified LCP and related zoning ordinances with respect to coastal hazards, biological resources, adequacy of public services, and CEQA consistency. The project warrants Coastal Commission review and further deliberations regarding these issues.

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

**SECTION V. Certification**

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

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent  
Date: 6/15/12

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

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

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

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE

45 FREMONT STREET, SUITE 2000

SAN FRANCISCO, CA 94105-2219

VOICE (415) 904-5260 FAX (415) 904-5400

TDD (415) 597-5885

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: California Coastal Commission; Commissioners Steve Kinsey and Brian Brennan

Mailing Address: 45 Fremont St., Suite 2000

City: San Francisco, CA

Zip Code: 94105

Phone: (415) 904-5200

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

City of Half Moon Bay

2. Brief description of development being appealed:

Land division of 5.5 acres into 12 residential lots and 1 remainder lot with associated improvements, including utilities.

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

2098 Touraine Lane, Half Moon Bay (San Mateo County), APN 056-150-010, -120

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

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

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JUN 21 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

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

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-2-HMB-12-011

DATE FILED: June 18, 2012

DISTRICT: North Central Coast

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

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

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

6. Date of local government's decision: June 5, 2012

7. Local government's file number (if any): PDP-005-11

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

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

a. Name and mailing address of permit applicant:

Gibraltar Capital, attention Mr. Cameron Jeffs,  
413 Main Street  
Half Moon Bay, CA 94019

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

(1) City of Half Moon Bay Planning Dept., attention Pat Webb, Interim Planning Director, Half Moon Bay, CA 94019

(2) John F. Lynch, 2098 Touraine Lane, Half Moon Bay, CA 94019

(3) Ed Love, 720 Main Street, Half Moon Bay, CA 94019

(3) Scott Frazer, 330 Purissima Street, Half Moon Bay, CA 94019

(4) James Benjamin, 400 Pilarcitos Avenue, Half Moon Bay, Ca 94019



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

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

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

See attached sheet(s).

## **Attachment A: Appeal Reasons**

The City of Half Moon Bay approved a coastal development permit to subdivide two parcels, totaling 5.5 acres, into 12 residential lots and 1 remainder lot (13 total lots) with associated improvements, including utilities and construction of a private road. The project is located at 320 Church Street, and the lot extends west to front Highway 1, and runs parallel and adjacent to the south of Pilarcitos Creek. The City-approved project raises Local Coastal Program (LCP) conformance issues related to biological resources, the provision of public services, and flooding hazards as follows:

First, it appears that the City-approved project would impact the riparian area associated with Pilarcitos Creek at this location; an area that appears to support sensitive habitat, including for rare and endangered species. In making this decision, it appears that the City did not adequately determine or identify the location of such habitat resources, including the degree to which they constitute sensitive habitats and/or provide habitat for rare or endangered species, and thus it is not clear that the required buffers are sufficient in this case. Pilarcitos Creek has previously been identified as an important habitat resource in Half Moon Bay, including in relation to habitat for the listed endangered San Francisco Garter Snake and listed threatened California Red-Legged Frog, and there is little indication that this assessment is no longer applicable. Therefore, it appears that the project has not been appropriately evaluated (and potentially modified) to address the potential to adversely impact both riparian resources and sensitive species and habitats at the site. In fact, the approved project would intensify development adjacent to the riparian area, and appears to be setback only 50 feet from it, when a larger setback appears necessary and appropriate given the sensitivity of the resources. The certified LCP protects such biological resources, including by requiring new development to avoid sensitive habitat and riparian areas, and to be set back an adequate distance from such areas to avoid significant impacts to such resources, and it does not appear that the City's action is consistent with these requirements.

Second, the City-approved project would result in the creation of new lots for residential development in an area that is highly constrained in terms of the availability of public services, including traffic capacity. The City's LCP includes strong protections for public access to the coast and specifies that new development shall not be permitted in the absence of adequate infrastructure, including in terms of road capacity associated with Highways 1 and 92. According to recent traffic analysis, the existing level of service on Highways 1 and 92, which are the primary access roads to the region's coastal areas, is rated at level of service F at numerous bottleneck sections. Level of service F is defined as heavily congested flow with traffic demand exceeding capacity, resulting in stopped traffic and long delays. This level of congestion on these highways significantly interferes with the public's ability to access the Half Moon Bay and San Mateo County coastal area. Residential development associated with the City-approved new lots will individually and cumulatively add to the level of congestion on Highways 1 and 92, further impacting the public's ability to access the coast. The Coastal Commission and the City have consistently addressed this issue in recent cases through requiring offsetting lot retirement (e.g., Carnoustie and Ailanto subdivisions in 2007 and 2008), but such retirement was not included as part of the approved project, and this issue is unmitigated, inconsistent with the LCP.

Finally, the City-approved project appears to allow for new development in the 100-year floodplain. The City's LCP requires new development to avoid and minimize hazards, including hazards from flooding, and prohibits new development that causes or contributes to flooding. The City's approval appears to be inconsistent with these hazards policies because there are no

**Attachment A: Appeal Reasons (continued)**


required conditions or mitigations that would avoid or minimize the hazards on the site, or that would ensure the development would not intensify flooding on or off of the site.

In summary, the City-approved project appears to be inconsistent with the policies of the LCP related to biological resources, adequacy of public services, and flooding hazards. The City-approved project warrants further Commission review and deliberations regarding these issues.

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

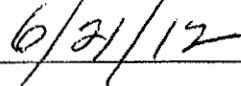
**SECTION V. Certification**

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



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

Date: \_\_\_\_\_



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

**Section VI. Agent Authorization**

I/We hereby  
authorize \_\_\_\_\_

to act as my/our representative and to bind me/us in all matters concerning this appeal.

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

Date: \_\_\_\_\_

# APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

See Attached.

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

## SECTION V. Certification

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

Signed: 21  
Appellant or Agent

Date: June 21, 2012 .

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

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**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

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 Pillaritos 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