

CALIFORNIA COASTAL COMMISSION

North Central Coast District Office
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F5

NORTH CENTRAL COAST DISTRICT DEPUTY DIRECTOR'S REPORT

*For the
July Meeting of the California Coastal Commission*

MEMORANDUM

Date: July 11, 2014

TO: Commissioners and Interested Parties
FROM: Dan Carl, North Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the North Central Coast District Office for the July 2014 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

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

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

DETAIL OF ATTACHED MATERIALS**REPORT OF DE MINIMIS WAIVERS**

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
2-13-0863-W Dixon Marine LLC	Interior remodel of a portion of an existing mechanics shop into office space, including the addition of a 1,070 square foot second floor within the existing footprint of the 4,000 square-foot building, and other improvements (grading, parking, and removal of unpermitted development).	12786 Sir Francis Drake Blvd., Inverness, CA 94937 06041-112-310-26
2-14-0335-W San Mateo County Harbor District, Attn: Peter Grenell	Replacement of 11 existing timber dock fingers, including four 65-foot fingers, three 50-foot fingers, three 45-foot fingers, and one 35-foot finger, with pre-fabricated concrete fingers of the same size and in the same location throughout the inner harbor of Pillar Point Harbor	1 Johnson Pier, Half Moon Bay, CA 94019 06081-047390020

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CORRECTED
NOTICE OF PROPOSED PERMIT WAIVER

Date: June 26, 2014
To: All Interested Parties
From: Nancy Cave, North Central Coast District Manager
Laurel Kellner, Coastal Planner *Nancy Cave*
Subject: **Coastal Development Permit (CDP) Waiver 2-13-0863-W**
Applicant: Dixon Marine LLC

Proposed Development

Interior remodel of a portion of an existing mechanics shop into office space, including the addition of a 1,070 square foot second floor within the existing footprint of the 4,000 square-foot building, and other improvements (grading, parking, and removal of unpermitted development) at 12786 Sir Francis Drake Boulevard in Inverness, Marin County (APN 112-310-26). Removal and relocation of the existing septic system to a new location outside of sensitive habitat buffers.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicants regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

As proposed, the project will not have any significant adverse impacts on coastal resources, including public views, water quality and marine resources. The project is located within the commercially developed portion of the town of Inverness and is bordered by developed parcels to the north and south. The proposed project's siting, design, scale and scope are similar and consistent with that of surrounding development. The project is infill and will concentrate development on the site outside of sensitive habitat areas and their buffers. For the reasons above, the proposed project is consistent with both the Coastal Act and the certified Marin County Local Coastal Program.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on July 11 2014, in Ventura. If four or more Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Nancy Cave in the North Central Coast District office.

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NOTICE OF PROPOSED PERMIT WAIVER

Date: June 25, 2014
To: All Interested Parties
From: Nancy Cave, North Central Coast District Manager *Nancy Cave*
Renée T. Ananda, Coastal Program Analyst
Subject: **Coastal Development Permit (CDP) Waiver 2-14-335-W**
Applicant: Peter Grenell, San Mateo County Harbor District

Proposed Development

Replacement of 11 existing timber dock fingers, including four 65-foot fingers, three 50-foot fingers, three 45-foot fingers, and one 35-foot finger, with pre-fabricated concrete fingers of the same size and in the same location throughout the inner harbor of Pillar Point Harbor located at 1 Johnson Pier, in Half Moon Bay, San Mateo County.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed project will facilitate marine recreational use by replacing deteriorated dock fingers that have reached the end of their service-life. The site does not contain sensitive habitat and removal of the deteriorated docks will prevent the discharge of dock materials into coastal waters. The proposed project includes extensive construction best management practices to avoid and minimize potential impacts to the water quality of the harbor area and coastal waters. The project will not have a significant impact on public access or biological resources. The Applicant has received all necessary federal, state and local approvals for the proposed project.

For all of the above reasons, the proposed project is consistent with Chapter 3 of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on July 11, 2014, in Ventura. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Renée Ananda in the North Central Coast District office.

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**Memorandum****July 10, 2014**

To: Commissioners and Interested Parties

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

Re: **Additional Information for Commission Meeting**
Friday, July 11, 2014

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
F7a	City of Half Moon Bay LCP Amend. # 1-11	Staff Report Addendum	
F8a	A-2-HMB-12-011 Gibraltar Capital	Staff Report Addendum	
F8b	2-11-009 City of Pacifica Shoreline Protection	Staff Report Addendum	
F7a	City of Half Moon Bay LCP Amend. # 1-11	Correspondence, Alan & June Cozad	1
F8a	A-2-HMB-12-011 Gibraltar Capital	Correspondence, John Lynch	2-3

F7a

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

RECEIVED

JUL 09 2014

CALIFORNIA
COASTAL COMMISSION

We are writing in regard to Agenda Number 7 (Local Coastal Programs), referencing the City of Half Moon Bay LCP Amendment No. HMB-MAJ-1-11.

Our parcel (056-057-220), which measures 50 x 100 feet, is subject to severe building size restrictions that should be remedied by approval of this amendment. We urge you to pass this request by the planning department of Half Moon Bay.

Thank you for your time and consideration. We have waited a long time for some relief from these building limitations.

Sincerely,

Alan and June Cozad

RECEIVED

JUL 09 2014

CALIFORNIA
COASTAL COMMISSION

Item F8a

A-2-HMB-12-011

Continue to address appeal Issues

Ms. Stephanie Rexing
California Coastal Commission
North Central District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105

F8a

July 8, 2014

Dear Ms. Rexing:

Thank you for the June 27, 2014 notice of the de novo hearing on my appeal of the subdivision of 320 Church Street approved by the City of Half Moon Bay. The project is certainly improved, but I am concerned that the revised project does not conform to the City's Local Coastal Program in important ways. I am unable to travel 350 miles to personally testify at the Commission's meeting in Ventura, and so I hope that staff and the Commission will consider these written comments instead.

Upland habitat outside of riparian area is not recognized by staff as habitat. Required for frogs for foraging, and for snakes for thermoregulation. Also required for escaping high water. Their life stages includes the lands upland of the drip line of riparian vegetation to escape waters flooding their refuge, for estivation and foraging, and for thermoregulation. The buffer area required by 18.38.085(D) of at least fifty feet should begin at the edge of this upland habitat, not at the drip line of riparian vegetation. This is tacitly recognized by the similarity of proposed restrictions in the buffer area to the restrictions required by the LCP for the habitat of listed species. The net effect is that the listed species habitat is not acknowledged, and while the proposed conditions would protect upland habitat, it would not have the buffer required by LCP policy and zoning ordinance.

In addition, the project location was the subject of a June 13, 2012 comment from the U.S. Fish and Wildlife Service. LCP Policy 3-x and associated zoning ordinance requires conformance with USFWS regulations, but there is no record of an opinion of "no take" or "not likely to take" from the USFWS.

The applicant's wetlands report made a curious distinction between natural and artificial wetland. Even if the wetland at sample point 9 were the byproduct of earlier development, it is unclear how the LCP policies and zoning can be interpreted to justify the proposed absence of protection the allegedly "constructed" wetlands. I would appreciate clarification on this point, or a revision in the project conditions to impose the required buffer area.

In addition, the report of wetlands investigation was curiously restricted to areas outside the riparian corridor, when wetlands may be collocated within the riparian corridor. Since section 18.38.080(D) of the LCP's implementing ordinance requires a 100-foot buffer zone around wetlands, the presence of such a wetland within the out fifty feet of the riparian area would result in addition buffer requirements. I would appreciate reports of data from all points investigated within the riparian area, or a justification of why no locations inside the riparian area were investigated.

The project effectively rewards the unpermitted and un-remediated removal of riparian vegetation, which was well documented for the City of Half Moon Bay by Biotic Resources Group in an April 30, 2001 report entitled Wolverine Parcel Riparian Assessment. To avoid rewarding the violations documented in

this report, the riparian buffer area required by Coastal Act 30231, LCP policies 3-10 and 3-11, and implementing ordinance 18.38.075(D) should extend a minimum of fifty feet from the pre-violation edge of riparian vegetation clearly identified in that report, rather than the post-violation riparian drip line which has been maintained by mowing into blackberry and other riparian species.

Some conditions associated with the protection of staging areas appears to water down the protections afforded to environmentally sensitive habitat areas (e.g., "minimize construction encroachment on sensitive habitat areas" in condition 6.a, in contrast to avoidance of sensitive habitats required by condition 6.c.5 on page 11) and provides no explicit protection for buffer areas, including those which are being protected de facto as upland habitat for listed species.

Although the staff report cites LCP Policy 3-21 requiring the City to revise its Habitat Areas and Water Resources Overlay (HAWRO) to show the location of habitat for rare and endangered species such as the San Francisco garter snake, the required HAWRO update is not a condition of the project.

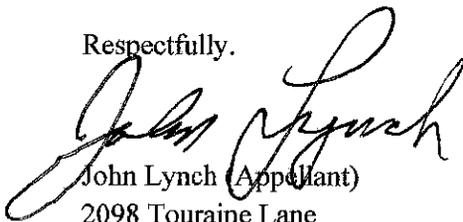
Thank you for obtaining the analysis of the flood hazards. Although the report was based on 1929 data does not reflect changes in topography such as significant amounts of fill on the north side of the Pilarcitos Creek near the proposed development, the report states that Highway 1's will act as a weir holding the water to a maximum height of between 59.4 and 59.6 feet. However, the areas marked "developable area" on the map (included as page 41 of the Commission's staff report) appear to be below this elevation. I remain unclear on what minimum elevation will be used for building pads, and did not find conditions require building pads to be sited where the ground level is above 59.6 feet.

I applaud the staff recommendation that the applicant protect coastal access by retiring a meaningful, legal development coastside entitlement each entitlement that this subdivision created. The applicant's proposal for in-lieu fees provides no assurance that an equivalent number of building entitlements on legally formed parcels would in fact be retired, and creates a conflict of interest for proposed recipients of those funds. I believe that the Coastside Land Trust has distanced itself from applicant's fee proposal.

I hope to listen to the hearing over the internet, and hope that the above concerns about mapping and protection of endangered species, wetland, and pre-violation sensitive habitats and their buffer areas will be addressed, that building sites' elevation above flood hazard will be included as a condition, and that the coastal access protection of requiring no net increase in development entitlements is affirmed.

Thank you for considering my comments.

Respectfully,



John Lynch (Appellant)

2098 Touraine Lane

Half Moon Bay, CA 94019

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F7a

Prepared July 7, 2014 for July 11, 2014 Hearing

To: Commissioners and Interested Persons
From: Nancy Cave, District Manager
Stephanie Rexing, Coastal Planner *SR*
Subject: **STAFF REPORT ADDENDUM for F7a**
City of Half Moon Bay LCP Amendment Number 1-11

The purpose of this addendum is to modify the staff report for the above-referenced item. Staff worked closely with the City of Half Moon Bay to address their concerns leading up to the time that the staff report was distributed, and has continued to work closely with the City since that time in an effort to narrow remaining concerns. This addendum makes a minor change to the staff recommendation designed to clarify one of the suggested modifications regarding legal lot requirements. Specifically, the City was concerned that the current suggested modification language would confuse the requirements for lots legally created prior to coastal permitting requirements (per Proposition 20 and the Coastal Act). The addendum change makes it explicit that lots that were legally created prior to coastal permitting requirements do not require a CDP to be considered legal (see number 1 below). Thus, the change does not alter the staff recommendation, but rather only provides additional clarity to help address the City's concern. In addition, the City is no longer requesting changes to the suggested modifications beyond that change, and so certain sections of the staff report's findings that describe the City's position must be deleted and/or changed to reflect the fact that the City is now in agreement with the staff recommendation and the suggested modifications (see numbers 2 through 4 below). Thus, the staff report is modified as shown below (unless otherwise noted, text in underline format indicates text to be added and text in ~~strikethrough~~ format indicates text to be deleted).

1. **Modify the last sentence in Suggested Modification 1 on staff report page 4 as follows** (where text in **bold double underline** format indicates text to be added):

*... In addition, a lot may only be considered exceptional if the lot was legally created **prior or pursuant to the coastal development permit requirements of the Coastal Act and its predecessor statute.***

2. **Modify the text starting at the bottom of staff report page 15 as follows:**

~~Discussions with City staff have suggested that a lot can be considered legally created if~~

~~created by "operation of law," independent of the requirements of the Subdivision Map Act. Thus, the City opposes the suggested strikeout of "operation of law" in Suggested Modification 1 and requests that it be added back into the amendment for certification. The City also requests that the requirement that a lot be proven legal for the purposes of the Coastal Act (either by proof of a coastal development permit or proof that none was required) be removed from Suggested Modification 1. The City feels that this requirement inserts a legal conclusion into the code definition of exceptional lots.~~

~~It is unclear from discussions with the City how a lot can be found legal outside of the requirements of the Subdivision Map Act "by operation of law". Regardless, requirements that lots be found legally created for purposes of the Coastal Act are independently required in order to ensure that less stringent standards are not certified for lots that have not been legally created pursuant to the CDP requirements of the Coastal Act.~~

3. Modify the text starting at the second full paragraph on staff report page 19 as follows:

~~The City has suggested that in **Suggested Modifications 2 and 7** the word "enumerated" be changed to "identified," in order to avoid the need for a numerical analysis when proposing to reallocate water and sewer infrastructure reserved for priority uses to low income housing. However, such a numerical analysis is required in the absence of an LUP amendment revising the reservations for priority uses that are clearly set forth in the LUP. The City's suggested change would result in the IP being inconsistent with the priority water allocation that is clearly laid out in the LUP. Absent an LUP amendment to revise the numerical allocations, such a change is inconsistent with the LUP and cannot be effectuated through an implementation plan amendment. Though a change from "enumerated" to "identified" would seem to be a change in name only, failure to reserve the allocations for priority uses set forth in the LUP in order to reallocate those reservations to low income housing would make the IP inconsistent with the LUP.~~

~~In addition to requesting the "enumerated" to "identified" change, the City requested that the language that references Government Code 65589.7 be undeleted from **Suggested Modifications 2 and 7**. Though California Government Code Section 65589.7 does require that agencies or entities providing water or sewer services grant a priority to developments that include affordable to lower income households, that provision applies to water and sewer agencies and does not prevent either the Commission or local government entities from adopting Local Coastal Programs consistent with the requirements of the Coastal Act. Subsection (e) of Government Code section 65589.7 expressly states that it is intended to neither enlarge nor diminish the authority of a city to adopt a housing element. Therefore, the ~~M~~modifications 2 and 7 adopted herein are consistent with Government Code sections 65589.7 and the Coastal Act.~~

~~In summary, the LCP (in implementing the Coastal Act) demands that uses designated priority under the LUP be given priority allocations for infrastructure services such as sewer and water. The LCP's LUP contains numerous policies that mandate the provision of infrastructure supplies to serve Coastal Act and Local Coastal Program priority uses, and includes specific reference to reserving capacity for enumerated priority uses.~~

4. Modify the text starting at the last paragraph on staff report page 26 as follows:

The City has proposed that the provision exempting second dwelling units from residential growth limitations be added back in to the proposed amendments in order to comply with state housing law as governed by Government Code 65852.2. Though California Government Code Section 65852.2 does state that second dwelling units "shall not be considered in the application of any local ordinance, policy or program to limit residential growth," however, that provision governs local ordinances rather than local or state government entities implementing state law. When implementing the Coastal Act, a city or county is not acting under its "police power" authority but rather under authority delegated to it by the state. LCP provisions regulating development activities within the coastal zone such as the provision found in Half Moon Bay's LUP Policy 9.4 are an element of a statewide plan, and are not local in nature. Therefore, Suggested Modification 5 is consistent with Government Code sections 65852.2 because under the Coastal Act's legislative scheme, the LCP and the development permits issued by local agencies pursuant to the Coastal Act are not solely a matter of local law, but embody state policy. (Pratt v. California Coastal Commission (2008) 162 Cal. App.4th1068). Furthermore, subsection (j) of Government Code section 65852.2 governing second units expressly states "[N]othing in this section shall be construed to supercede or in any way alter or lessen the effect or application of the California Coastal Act (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for second units."

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F8a

Prepared July 9, 2014 for July 11, 2014 Hearing

To: Commissioners and Interested Persons
From: Nancy Cave, District Manager
Stephanie Rexing, Coastal Planner *SR*
Subject: **STAFF REPORT ADDENDUM for F8a**
CDP Application A-2-HMB-12-011 (Gibraltar Capital)

The purpose of this addendum is to modify the staff report for the above-referenced item. Specifically, in the time since the staff report was distributed, Staff and the Applicant have been in communication about the staff recommendation, and have come to agreement on certain changes that would allow for the Applicant to be in agreement with it. Thus, this addendum does two primary things. First, it provides additional refinements to the findings regarding mitigation for cumulative adverse traffic impacts affecting coastal public access, including in response to additional materials submitted by the Applicant for the record. Second, it changes the timing of the lot retirement condition (Special Condition 8 on pages 14 and 15 of the staff report) to be prior to occupancy as opposed to prior to issuance of the coastal development permit (CDP). Although staff generally prefers prior to issuance conditions to best ensure compliance, in this case staff is supportive of the Applicant's timing request, including because the mitigation would be required at the time when the impact of additional residents would begin to accrue. With this change, the Applicant is in agreement with the staff recommendation.

In addition, staff received a letter from one of the original Appellants in this matter, John Lynch, on July 9, 2014 (see District Director's report for Item F8a). In that letter, Mr. Lynch makes a series of observations related to habitat concerns, flooding concerns, and other issues that warrant response. Thus, this addendum also provides a new response to comments section.

Finally, in the time since the staff report was distributed the Coastside Land Trust, whom the Applicant names as the preferred recipient of their proposed in-lieu fee for lot retirement, has contacted staff and asked that their name be removed from the staff report findings. Thus, this addendum also addresses the Coastside Land Trust request. Further, the addendum fixes certain minor reference errors.

Thus, the addendum addresses the Applicant's issues, one of the original Appellant's comments, and the Coastside Land Trust request. The changes made here clarify the staff recommendation, but they do not alter the basic framework and parameters of it. With the changes incorporated in

this addendum, the Applicant is in agreement with the staff recommendation and the matter is being moved to the consent calendar. Thus, the staff report is modified as shown below (where applicable, text in underline format indicates text to be added, and text in ~~strikethrough~~ format indicates text to be deleted).

1. Modify the staff report summary on page 3 as follows:

The lot retirement requirement as recommended by the staff provides flexibility to the Applicant by allowing the Applicant to either retire development rights in a pro rata fashion or purchase the lots and donate the lots after purchase to a public or private land management agency, such as a public land trust the Coastside Land Trust or similar organization that supports lot retirements in conjunction with the City or County. This flexibility allows the retirement to occur in a way that provides the Applicant with the ability to purchase lots at the best price the Applicant can negotiate and also assures that the number of the development credits needed to mitigate properly for the public access impacts will be retired. In fact, this Applicant has proposed a minimum of a \$27,500.00 fee to be contributed to a public land trust the Coastside Land Trust or similar organization that supports lot retirements in conjunction with the City or County. ...

2. Modify the staff report beginning on page 14 as follows:

8. Cumulative Public Access Impact Mitigation. PRIOR TO OCCUPANCY OF ANY RESIDENTIAL DEVELOPMENT ON ANY LOT WITHIN THE APPROVED SUBDIVISION ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit evidence, for the review and approval of the Executive Director, that the development rights have been permanently extinguished on ten existing legal residential lots (equal to the number of residential lots to be created by the approved project) consistent with **Special Condition 1** such that the subdivision of property authorized herein shall not result in a net increase of existing legal lots for residential development within Mid-Coast Region of San Mateo County, an area that is generally depicted on **Exhibit 6** and that is primarily served by the segment of Highway 1 between its intersection with Highway 92 and Devil's Slide and/or by the segment of Highway 92 west of Highway 280.

...
b. As an alternative to the method described in subsection a above, the Applicant may instead, prior to occupancy of any residential development on any lot within the approved subdivision issuance of the coastal development permit, purchase existing legal lots that satisfy the criteria listed above and, subject to the review and approval of the Executive Director, dedicate such lots in fee to a public or private land management agency approved by the Executive Director for permanent public recreational or natural resource conservation purposes, provided the lots are restricted as described in subsection a above.

3. Modify the staff report on page 17 as follows:

The Applicant also proposes to provide a conservation easement to protect the creek and riparian habitat consistent with the policies of the LCP, which will include the entire westerly parcel adjacent to Highway 1. Lastly, the Applicant proposed to provide a minimum \$27,500

traffic mitigation fee to a public land trust organization ~~Coastside Land Trust~~ to support additional lot retirements consistent with the City's traffic and open space preservation goals.

4. Modify the staff report on pages 18 and 19 as follows:

Applicable Policies

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

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

...

Analysis

Half Moon Bay's LCP contains several policies, including Policies 9-2, 9-4, 10-4, and 10-25, that require new development to be served by adequate facilities to accommodate traffic, especially with regard to assuring that there is adequate traffic capacity to serve public access to beaches and coastal recreation. The LCP policies were crafted in order to carry out the requirements of the Coastal Act, such as section 30250(a), which requires that new development be located in areas with adequate services and where it will not have significant adverse effects, either individually, or cumulatively, on coastal resources. In particular, LUP Policy 9-4 expressly requires that development shall be served with adequate services and that lack of adequate services such as adequate road facilities shall be grounds for denial of a development permit. LCP Policy 10-4 reserves public works and traffic capacity for those uses given priority under the LCP, such as coastal access and recreation. Policy 10-25 designates Level of Service (LOS) C as the desired LOS on Highways 1 and 92 except during weekday and weekend peak-hours when LOS E may be accepted. The LCP also incorporates Coastal Act Policies 30210 and 30211 through LCP Policy 1-1 which states that the City shall adopt Coastal Act Sections 30210 through 30264 as the guiding policies of the LCP. Coastal Act Sections 30210 and 30211 require that maximum access be provided and that development not interfere with the public's access rights.

5. Modify the staff report on page 24 as follows:

This Applicant has proposed a minimum of \$27,500.00 fee to be contributed to a land trust the ~~Coastside Land Trust or similar~~ organization that supports lot retirements in conjunction with the city or county (see Exhibit 10). ...

6. Modify the staff report beginning on page 25 as follows:

...Lot retirement not only reduces those intensities, but does it in a certain and permanent way.

In terms of the Applicant's assertions that their project is distinguishable from the other subdivision projects requiring lot retirement referenced above because it creates a small number of developable lots in comparison to those other projects and because it is an infill project that is "not auto-dependent," the issue is not one of infill but of new lots. New lots lead to identifiable impacts, including of a cumulative nature, to an already oversubscribed system, as described above. Again, the project is located adjacent to two of the most impacted intersections in Half Moon Bay, the intersection of Highways 1 and 92 and the intersection of Highway 92 and Main Street, and it will add traffic to these roadways in such a way as to adversely impact public access inconsistent with the LCP and the Coastal Act. Although the walkable nature of the project is laudable, the project is located just adjacent to these two major arterials that serve to transport people from areas in and around the City both to and from jobs elsewhere in the area. As described earlier, these roadways are highly impacted, operating at levels of service that are below acceptable as designated by the LCP. As previously stated, per the Applicant's traffic studies and the County Congestion Management Plan, the intersection of Highway 92 and Main Street, adjacent to the proposed project site, operates at LOS F at AM, PM and Saturday midday peak.¹ In addition, the City's Traffic and Congestion Mitigation Plan found that the intersection of Highways 1 and 92 will be operating at LOS F under 2030 cumulative growth conditions, regardless of the improvements proposed by the City. Therefore, both existing and future projected conditions near the project site are at a LOS which exceeds the LCP required limits and would also exceed the current LOS standard for this area within the San Mateo County CMP. When the current levels of service are already at impermissible levels, any added trips, no matter the amount (here, for example, 33 more trips at Saturday midday peak), are cumulatively considerable.

As previously stated, even if the proposed development is walkable and served by public transit, some residents of the proposed subdivision will likely drive to jobs outside of Half Moon Bay across Highways 1 and 92, due to the existing housing/jobs imbalance in the Midcoast area. Further, this project is distinguishable because it permits the subdivision of two commercially zoned lots into 12 residential lots, which will divert infrastructure from uses that would have been priority under the LCP and Coastal Act (potentially commercial visitor-serving) to lower priority residential uses.

According to LCP Policy 9-4, because this area is served by roadway segments and intersections that are already below the acceptable LOS, the LCP would require denial of the project, but an alternative to that denial is to require the retirement of development rights on lots in proportion to the number of new lots created. As structured, recommended Special Condition 8 allows the Applicant to accomplish lot retirement by extinguishment of development rights on an equal number of lots or by purchase and dedication to a public or private land management agency. This flexibility allows the Applicant to accomplish Special Condition 8 in the way they propose without a fixed dollar amount as is associated with the

¹ City/County Association of Governments of San Mateo County, Final San Mateo County Congestion Management Program, 2011.

Applicant's initial proposal (see Exhibit 10).

Courts have supported lot retirement as a method to reduce development impacts created by subdivisions. For example, the Superior Court of San Mateo County, in reviewing the conditions imposed by CDP A-1-HMB-99-022-A-1 (Ailanto), found that the lot retirement condition imposed in that project served the "governmental purpose of limiting additional impacts on the traffic due to residential development, which in turn impact the public's access to the coast."² The court in the Ailanto decision went on to state that "requiring elimination of the development potential of the same number of lots as the number of additional legal lots proposed to be developed under the permit will minimize...the project's cumulative impact on regional traffic which will further coastal access for the public."³ The court in Ailanto concluded, "it seems reasonable to require the elimination of that [cumulative] impact as nearly as possible by retirement of the development rights to a like number of developable lots."⁴

Further, lot retirement assures that the spirit of the Special Condition 8, to retire development rights in pro rata proportion to the amount of lots created, is met. This is a more certain way to accomplish this retirement of development rights than estimating a set fee. A 1:1 ratio of retired lots to new developable lots ensures that the mitigation is roughly proportional. Additionally, lot retirement ensures in a more immediate way that the mitigation is carried out. Further, a set fee would be best deposited into an existing lot retirement program controlled by the City of Half Moon Bay (or possibly San Mateo County more broadly), but such a program has yet to be developed. The way that Special Condition 8 is currently structured guarantees a 1:1 retirement, even without the existence of a formal lot retirement program.

The Commission therefore finds that the lot retirement requirement contained in Special Condition 8 provides flexibility to the Applicant to either retire development rights in a pro rata fashion or purchase the lots and donate the lots after purchase to a public or private land management agency such as the Coastside Land Trust or similar organization that supports lot retirements in conjunction with the City or County. This flexibility allows the retirement to occur in a way that provides the Applicant with the ability to purchase lots at the best price the Applicant can negotiate and also assures that the number of the development credits needed to mitigate properly for the public access impacts will be retired. In fact, this Applicant has proposed a minimum of \$27,500.00 fee to be contributed to a land trust the Coastside Land Trust or similar organization that supports lot retirements in conjunction with the city or county. Further, the Applicant submitted a listing of property sales (see Exhibit 11) that suggests that the number of lots here recommended for retirement could be purchased close to the amount of the fee here proposed by the Applicant. While the Commission cannot guarantee that 10 legal lots will be available for sale at any given time at the amount offered by the Applicant, the Applicant's listing evidences the feasibility of the recommended retirement

² Ailanto Properties, Inc. v. California Coastal Commission (2002) Tentative Statement of Decision of San Mateo County Superior Court., p. 20.

³ Ailanto Properties, supra, at p. 23.

⁴ Id., at p. 25.

condition.

The Commission finds that without the proposed lot retirement, the regional cumulative traffic impacts of the proposed development would significantly interfere with the public's ability to access the coast, in conflict with both Coastal Act Policies 30210, 30250(a) and 30252, all of which are incorporated as policies of the certified Half Moon Bay LUP, as well as the City-specific policies of the LCP cited above. Therefore, the Commission imposes Special Condition 8, requiring the Applicant to extinguish the development rights on existing legal lots in the City in order to offset the significant adverse cumulative impacts resulting from the proposed creation of new lots. With this condition, the Commission finds the modified development proposal is consistent with the Half Moon Bay LCP and avoids significant adverse effects to traffic on Highways 1 and 92.

7. Modify the staff report on page 9 as follows:

*b. **Record Final Parcel Map.** The Permittee shall record a final map with the San Mateo County City of Half Moon Bay Recorder's Office consistent with the map reviewed and approved by the Executive Director as directed by part (a) of this special condition. The recorded document shall include legal descriptions and site plans of all resultant parcels.*

8. Modify the staff report on page 4 as follows:

The motion to effect this recommendation is found on page 5 & 6 below.

9. Add John Lynch's letter dated received July 9, 2014 as staff report exhibit 12 (see District Director's report for Item F8a on July 11, 2014) and modify the staff report on page 35 as follows:

H. RESPONSE TO JOHN LYNCH'S LETTER

On July 9, 2014, one of the original Appellants in this matter, John Lynch submitted a comment letter (see Exhibit 12). Mr. Lynch states that while the project is certainly improved via the project changes and the Commission's conditions in the time since it was appealed, he has remaining concerns about the consistency of the project with the Half Moon Bay LCP. Specifically, Mr. Lynch is concerned that the Applicant's biological assessment is inadequate with regard to characterizing upland habitat used by San Francisco garter snake and California red-legged frog, with regard to the assessment of wetlands in the project area and with regard to U.S. Fish and Wildlife's (USFWS) consultation on the project. Further, Mr. Lynch's letter requests the inclusion of special conditions that would require minimum finished floor elevations to be above the maximum flood elevations found in the Applicant's updated hazards report. Each of these contentions are addressed in the previous findings, but this response to comments section is added to provide additional clarity on Mr. Lynch's points.

Regarding Mr. Lynch's contentions relating to the adequacy of the assessment of the biological resources on site, the Applicant's biological resource assessment found that it was unlikely that any animals (including San Francisco garter snake and California red-legged frog) would venture out past the 50-foot buffer that extends from the limit of the riparian vegetation (a total

distance of 150 feet from the bank edge). As detailed earlier, Commission staff ecologist Dr. John Dixon reviewed the biological report and felt it adequately assessed on-site biological resources and concluded that the 50-foot buffer (extending from the limit of the riparian vegetation) would be sufficient to address species concerns at this location. Additionally, Dr. Dixon believes that the inclusion of low-level fencing to demarcate the buffer will improve the functioning of the buffer, including in order to assure the buffer is protected from infiltration to protect the sensitive habitats and species. The Commission finds the biological assessment adequate, and Mr. Lynch's related issues to be adequately addressed.

Mr. Lynch also expressed concerns that the Applicant's biological assessment found no wetlands onsite because the report differentiated between artificial and natural wetlands and because the wetlands investigation was restricted to areas outside the riparian corridor. Again, the report was reviewed by Dr. Dixon for adequacy of the assessment of resources onsite, including wetlands, and Dr. Dixon felt the report adequately addressed the presence of wetlands onsite, including as it used the one and three-parameter definition of wetlands used by the Coastal Commission and the U.S. Army Corps of Engineers, respectively, to assess the presence of wetlands onsite. The wetland delineation for the project is adequate, and the approved project appropriately addresses wetland concerns as directed by the LCP.

Additionally, with regard to the USFWS's involvement with this project, Special Condition 6c, specifically 6c(2) and 6c(4), ensure pre-construction surveys for sensitive species will be conducted and that proper consultation with USFWS and California Department of Fish and Wildlife is implemented consistent with LCP Policy 3-4, if signs of California red-legged frog or San Francisco garter snake are found within the project area. Again, these precautions are appropriate and adequate to protect these species in this case as directed by the LCP.

Another concern expressed in Mr. Lynch's letter is the lack of a special condition requiring finished floor elevations that are out of the worst case scenario flood levels found in the Applicant's most recent flood analysis. While some of the developable areas on the project site may be below such flood elevations, as stated earlier, the flood levels are below the proposed finished floor levels for proposed future residential structures, and thus this issue is appropriately addressed by project design.

Finally, Mr. Lynch's comment letter states that this project "effectively awards the unpermitted and un-remediated removal of riparian vegetation" because he alleges that such vegetation removal occurred on this property at some time in the past (and was memorialized by a Biotic Resource Group report to the City of Half Moon Bay dated April 30, 2001). Mr. Lynch states that in light of that report, the buffer should be from the edge of the "pre-violation" riparian vegetation. While Commission staff was notified of this vegetation removal referred to in Mr. Lynch's letter at the substantial issue determination stage of the project, the applicant's wetland delineation states that this vegetation removal was in an area that was not associated with the riparian corridor and therefore would have no impact on the required buffer. Further, when comparing the pre-vegetation removal delineation from the April 30, 2001 report to the applicant's delineation, it seems as though the riparian corridor has actually expanded on the southern side of the creek, which may render the removal and potential violation moot. Though the matter has been forwarded to the enforcement division of the Commission for investigation, because this area is in the City's enforcement jurisdiction, and they have an

official code violation for this action on file, Commission staff will defer to their jurisdiction before taking formal action. Regardless, the violation took place at least thirteen years ago and at a time when there was a different owner of the property than the current owner and Applicant.

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F8b

Prepared July 9, 2014 for July 11, 2014 Hearing

To: Commissioners and Interested Persons

From: Nancy Cave, District Manager *nc*
Joseph Street, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for F8b
CDP Application Number 2-11-009 (City of Pacifica Shoreline Protection)**

The purpose of this addendum is to modify the staff recommendation for the above-referenced item. In the time since the staff report was distributed, staff has received new input and information that suggests certain changes to the staff recommendation are appropriate. These changes include a minor change in condition language (in terms of defining the approved project) and some refinement to armoring impact findings. The Applicant is in agreement with the staff recommendation and the matter is being moved to the consent calendar. These changes do not modify the basic staff recommendation, which is still approval with conditions, but the changes require some discussion.

In terms of the change to the conditions, the reference to removing rock supporting the drain pipe is deleted as there is no such rock in that area. With respect to the armoring impact findings, staff's proposed findings included a level of detail that inadvertently caused some confusion between the Applicant and other parties involved in this project. Although all parties agreed with the final impact conclusion numbers, the intermediate steps provided in the findings served to over-complicate the matter unnecessarily. Thus, the intermediate steps of these findings are simplified, and the conclusion numbers remain the same.

Thus, with these changes, the Applicant and the Staff are in agreement on the staff recommendation, and the Applicant has asked that this item be moved to the Consent Calendar portion of the agenda. Staff is unaware of any opposition to the project or to hearing this item on the Consent Calendar. Thus, the staff report is modified as shown below (where applicable, text in underline format indicates text to be added, and text in ~~strikethrough~~ format indicates text to be deleted):

1. Modify Special Condition 1c on staff report page 6 as follows:

***Drain Pipe.** The above-ground portion of the drain pipe shall be removed, consistent with the project authorized under CDP waiver 2-11-030-W. ~~All rock supporting the drain pipe~~*

~~shall be removed, and only rock authorized by this CDP and described in part (a) above shall be allowed to remain.~~

2. Modify text near the bottom of staff report page 31 as follows:

~~...In this case, the existing revetment runs from the adjacent Aimco revetment along almost 200 some 174 feet of bluff. The revetment covers areas of sandy beach, and but for the revetment new beach area would result from landward retreat of the bluff in the absence of the proposed project.~~

3. Modify text starting at the top of staff report page 32 as follows:

~~The shoreline is irregular, but the area affected by passive erosion can be approximated as a 174-foot-long curvilinear bluff, extending from the revetment junction with the Aimco project on the north end to the tip of the 2011 extended revetment on the south end.¹⁷ Of this total distance, approximately 44 feet is covered by areas of the original revetment and engineered fill that has remained intact since 1997 (the northern end). The remaining 130 feet (the southern end) includes the area of original revetment and fill that was essentially removed by the 2010 failure, and in 2011 was filled and extended with the new revetment. The southern portion of the original The 1997 revetment prevented passive erosion of the bluff from 1997-2010, but in 2010 failed catastrophically (Exhibits 9,10), leaving behind a remnant extending 44 feet from the junction with the Aimco project to about 10 feet south of the drain pipe. The 2011 emergency project replaced and expanded the washed-out southern portion of the revetment, extending to a point approximately 140 feet south of the drain pipe. Since the magnitude of the 2010 bluff retreat was similar to or in excess of that which would have been predicted for 1997-2010 in the absence of shoreline protection (using a site-specific erosion rate, see below), we calculate the passive erosion impacts of the southern portion of the revetment only from 2011 forward.~~

~~In terms of the duration of impact evaluation, in this case it is appropriate to tie this evaluation (and mitigation requirements emanating from it) to the same time frame as the Aimco project (CDP 2-08-020) as the projects are functionally and physically related and connected, including because the improvements are partially located on Aimco property, protect Aimco existing structures, and Aimco must also agree to the terms and conditions of this CDP.¹⁸ That project was approved in 2011 with a 20-year initial impact mitigation period, ending on October 7, 2031. Therefore, as a practical matter, it is appropriate to require the evaluation of mitigation reevaluation time frame to match for both projects (i.e., the shoreline protection authorized here, as well as the shoreline protection authorized under CDP 2-08-020) for the entire structure (including the shoreline protection authorized here as well as the shoreline protection under CDP 2-08-020) at the same time in the future. ...~~

4. Modify text starting near the top of staff report page 33 as follows:

~~...The Commission's analysis indicates that the proposed project would retain 1,892 cubic yards of beach quality sand during the authorization period. In this case, the various~~

¹⁷ The alongshore length of the project north of the outfall pipe was measured based on the project plans included in CDP 156-99 (Exhibit 11) and corrected for the Aimco revetment overlap based on the project plans submitted in support of CDP 2-08-020 (Exhibit 13); the width south of the outfall pipe was measured from 2012 and 2013 aerial photographs (Exhibits 7, 9).

armoring components (i.e., revetments, fill slope, seawall), installed at several points in time, cover and retain materials over a total of 9,251 square feet of bluff face. Based on an average erosion rate of 1 foot per year and 20% sand content, and converting to cubic yards, the Commission's analysis indicates that the proposed project would retain 1,892 cubic yards of beach quality sand through the 2031 mitigation period. ~~onsists of the intact portions of the 1997 revetment and reconstructed slope, and can be divided into the following segments: (i) a 7-foot long section of original revetment between the junction with the Aimeo revetment and the 1996 bluff failure area extending to an average of 30 feet above mean sea level (MSL); (ii) a 37-ft. long section of original revetment below the reconstructed slope extending to 35 feet above MSL; and (iii) the intact portion of the original 1997 reconstructed slope covering approximately 2,866 square feet of the bluff face between the top of the revetment and the top of the bluff. This armoring covers 4,371 square feet of bluff and would be authorized to do so for 35 years (i.e., 1997 to 2031). The newer armoring consists of the reconstructed/extended revetment and the bluff face soil nail wall, and can be divided into three additional segments: (iv) a 45-foot long, 35-foot high section of reconstructed revetment extending from the northern edge of the 2010 failure area to the southern edge of the soil nail wall; (v) a 76-foot long section of reconstructed/extended revetment south of the soil nail wall in front of natural bluff with an average height of 20 feet; and (vi) the soil nail wall covering approximately 1,470 square feet of the bluff face between the top of the revetment and the bluff top. This armoring covers 4,880 square feet of bluff and would be authorized to do so for 21 years (i.e., 2014-2031). Thus the Commission's analysis indicates that the proposed project would retain 1,892 cubic yards of beach quality sand during the authorization period (i.e., 4,371 square feet of erosion for 35 years and 4,880 square feet for 21 years; at 1 foot of erosion per year; multiplied by 20% sand content; and converted to cubic yards).~~

~~The reduced size revetment included in the revised project (see **Special Condition 1**) differs from the proposed project in that the southernmost portion of the revetment will be removed, resulting in a somewhat lower impact on bluff-derived sand supply. With respect to the reduced project alternative, the oldest armoring, same as described and calculated above, would cover 4,371 square feet of bluff and would be authorized to do so for 35 years (i.e., 1997-2031). For the newer armoring, two sections (i.e., the 45-foot long, 35-foot high section of reconstructed revetment extending from the northern edge of the 2010 failure area to the southern edge of the soil nail wall (section (iv), above) and the soil nail wall covering approximately 1,470 square feet of the bluff face between the top of the revetment and the bluff top (section (vi), above) would remain unaltered, covering 3,360 square feet and authorized for 21 years (i.e., 2011-2031). The remaining section of reconstructed revetment (section (v), above), extending 76 feet south of the soil nail wall in front of natural bluff, with an average height of 20 feet, thus covering 1,520 square feet, has been in place for 3 years (i.e., 2011-2014). As modified under **Special Condition 1**, this portion of the southern portion of the reconstructed revetment would be reduced in length to 40 by 36 feet, would cover 800 square feet resulting in a 720 square foot reduction in the area of bluff face (to 8,531 square feet) covered by armoring. Using the same erosion rate, bluff sand content, and time frames as above, and would be authorized to do so for 18 years (i.e. 2014-2031). Thus, the Commission's analysis indicates that the revised project would retain 1,796 cubic yards of beach quality sand over the authorization period. (4371 square feet for 35 years, 3,360 square feet for 21 years, 1,520 square feet for 3 years, and 800 square feet for 18 years; at 1~~

foot of erosion per year; multiplied by 20% sand content; and converted to cubic yards.

Section 30235 Conclusion

In conclusion, the proposed project has had, and if retained would continue to have, quantifiable shoreline sand supply impacts. Beach sand loss has or ~~would~~ will occur due to: (1) placement of a riprap revetment onto approximately 7,658 square feet of sandy beach that otherwise would be available for public use (converted to a sand volume of 7,658 cubic yards); (2) fixing of the back beach location, resulting in the loss of 4,096 square feet of sandy beach (4,096 cubic yards of sand); and, when combined with the soil-nail wall fronting a portion of the upper bluff, (3) retention of 1,892 cubic yards of sand. When combined, these impacts sum to 11,754 square feet of beach area loss and an additional 1,892 cubic yards of sand during the project authorization period (until 2031).

*The ~~revised~~ reduced scale project being approved here, including the modifications required under **Special Condition 1**, ~~would~~ will reduce the encroachment and passive erosion impacts of the project, to 4,520 square feet (4,520 cubic yards) and 3,424 square feet (3,424 cubic yards) of beach area, respectively, for a total of 7,944 square feet (7,944 cubic yards). Of this total area of beach that will be lost as a result of the revised project, 19% is attributable to passive erosion between 1997-2010, while the remaining 81% is attributable to the 2011 project, which includes installation of new rip rap and the soil nail wall, and retention of the residual 1997 structures, during the period 2011-2031. The revised project will ~~will~~ also result in a slightly smaller impact on sand supply related to bluff erosion (1,796 cubic yards). Of this total sand retention impact, 23% is attributable to the volume retained by the currently intact portions of the original structures between 1997-2010, and 77% is attributable to the 2011 project (including both new structures and retained older structures) from 2011-2031.*

Thus, to conclude, the reduced scale project being approved here will lead to the loss of 4,520 square feet of beach due to physical encroachment and the loss of 3,424 square feet of beach that would have been created absent the project due to passive erosion, for a total loss of beach area of 7,944 square feet. In addition, the reduced scale project will lead to the loss of 1,796 cubic yards of sand that would have been delivered to the sand supply system absent the project.