

## CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904- 5200  
FAX (415) 904-5400  
TDD (415) 597-5885  
[WWW.COASTAL.CA.GOV](http://WWW.COASTAL.CA.GOV)



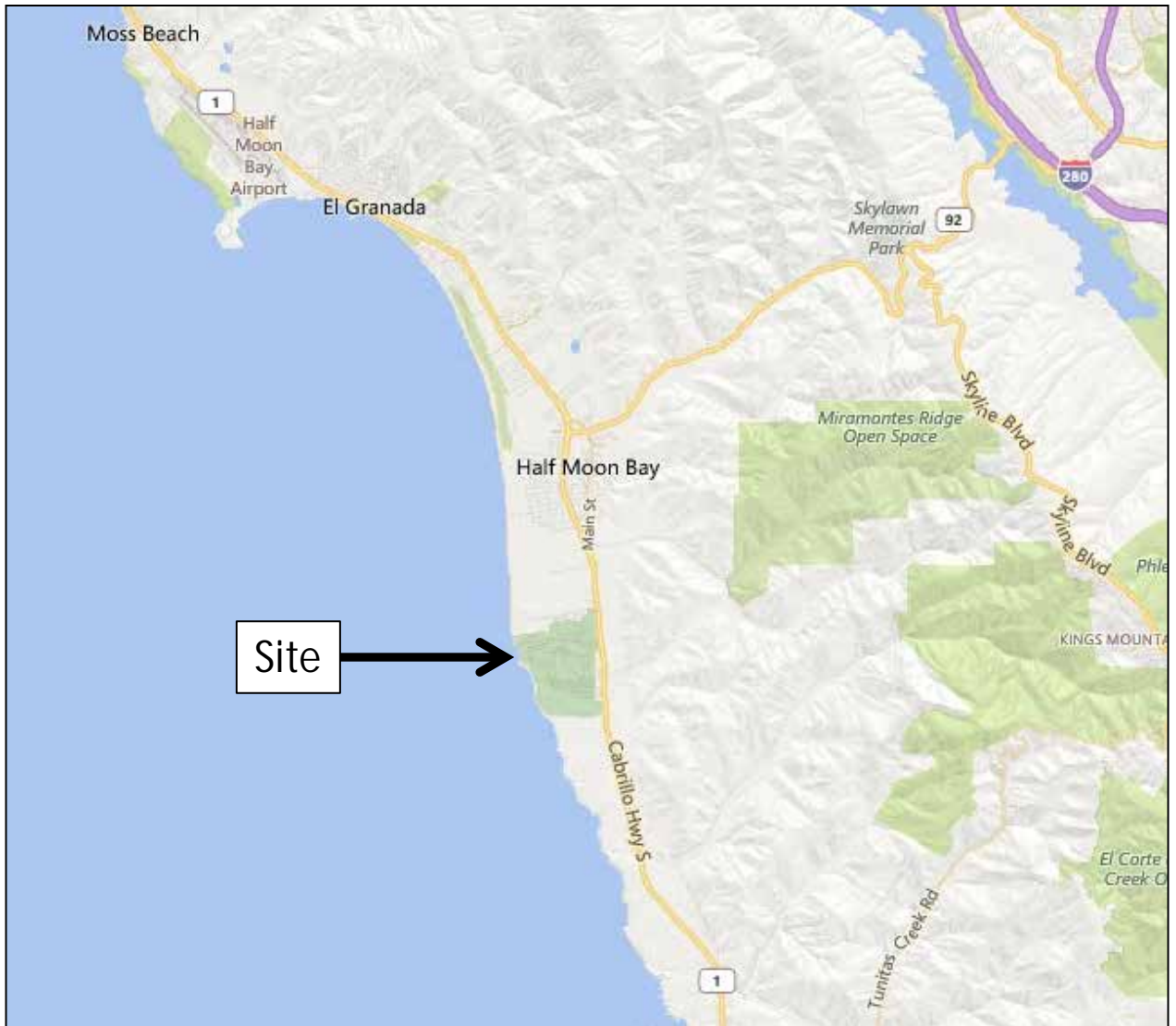
# Th7 & Th8

**CCC-03-CD-14-A & CCC-19-AP-01**  
**(SHC Half Moon Bay, LLC)**  
**June 13, 2019**

### EXHIBITS

- Exhibit 1: Vicinity Map of the Property
- Exhibit 2: Staff Report for CDP 3-91-71
- Exhibit 3: Staff Report for Consent Cease and Desist Order CCC-14-CD-014, dated March 26, 2004
- Exhibit 4: Notices of Violation of the Coastal Act dated September 30, 2016, December 22, 2016, and February 2, 2018
- Exhibit 5: Letter from CCC Enforcement staff to The Ritz-Carlton Half Moon Bay dated July 23, 2013 and Responses from The Ritz-Carlton Half Moon Bay dated August 31, 2011 and August 22, 2013

# Vicinity Map



DL 29/ 9/26/91

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

CAPITOLA ROAD  
SANTA CRUZ, CA 95062  
(408) 479-3511

Filed: 09/20/91  
 49th Day: 11/08/91  
 180th Day: 03/20/92  
 Staff: L. Otter/cm  
 Staff Report: 09/25/91 1293P  
 Hearing Date: 10/10/91  
 Commission Action:

AWIC 9-1  
 10/10/91 Monterey

STAFF REPORT: REGULAR CALENDAR

Th13a

APPLICATION NO.: 3-91-71

APPLICANT: HALF MOON BAY RESORT PARTNERS AND CITY OF HALF MOON BAY  
 AGENT: Jeff Mongan, Vice President (for the hotel applicant)  
 Mark Weiss, City Manager (for the City)

PROJECT LOCATION: (hotel) 200 Fairway Drive, seaward of Ocean Colony at  
 Miramontes Pt.; (road) from existing Miramontes Pt. Road to  
 hotel site. City of Half Moon Bay, San Mateo County.

PROJECT DESCRIPTION: 350 unit resort hotel complex, land division, and  
 extension of Miramontes Pt. Road (see Finding 1 for  
 complete description).

Lot area:	16.4 acres
Building coverage:	153,126 sq. ft.
Pavement coverage:	230,097 sq. ft.
Landscape coverage:	332,904 sq. ft.
Parking spaces:	600 proposed
Zoning:	Planned Unit Development
Plan designation:	Planned Unit Development
Length of road extension:	approx. 1900 ft.
Ht abv fin grade:	35 ft. typical, 58 ft. max.

LOCAL APPROVALS RECEIVED: Amended Ocean Colony PUD Plan; tentative  
 subdivision map; Site and Design Permit; and Use Permit No. 14-89.

SUBSTANTIVE FILE DOCUMENTS: Half Moon Bay Land Use Plan, certified 9/24/85;  
 Final EIR, dated 1/11/91; biologic report on riparian corridor (G. Scott  
 Mills, 10/1/90); Geotechnical Feasibility Study, dated 12/18/89, and EIR  
 response letter of 2/13/91.

SUMMARY OF STAFF RECOMMENDATION:

The proposed 350 unit resort hotel represents a priority visitor serving use  
 under the Coastal Act and the certified LCP Land Use Plan. The project  
 includes an extension of Miramontes Pt. Road to access the site across various  
 intervening ownerships within the South Wavecrest Redevelopment Area; the City  
 is the co-applicant for this portion of the project. Because only limited  
 sewage treatment capacity is presently available, this permit is phased to  
 limit hotel construction to 275 units until such time as additional sewage

treatment capacity is available. As conditioned to provide a comprehensive program of on-site and off-site public access facilities and low cost off-site overnight accommodations (campsites), a balanced range of recreational opportunities will result. Therefore, staff recommends approval as conditioned.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the local government's Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. See Exhibit A.

III. Special Conditions.

1. Incorporation of City Conditions.

The conditions of City of Half Moon Bay Site and Design Permit no. PSD-19-89 and Use Permit no. UP-14-89 (Exhibit B, attached) are hereby incorporated as conditions of this permit. Any changes in the City permit conditions shall be submitted for review by the Executive Director and, if found material, will be subject to approval by the Commission as amendments to this permit.

2. On-site Public Access Program.

Permittee shall provide for the establishment of, and arrange for maintenance of, public access facilities to and along the shoreline as follows:

- a. Miramontes Pt. parking. A public parking area on hotel premises at Miramontes Pt., min. 25 spaces, as provided by the Ocean Colony Planned Unit Development ordinance (Ordinance No. 4-91). Such parking area shall be open during daylight hours commencing at sunrise and at least until one hour after sunset throughout the year. (With respect to this coastal development permit, permittee may satisfy this condition by demonstrating that a like quantity and quality of parking, along with a paved access road, has been provided as an addition to the required parking at the seaward end of Redondo Beach Road.)



- b. Miramontes Pt. overlook. A blufftop scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Pt. Such overlook shall include a safety rail or barrier which does not interfere with public views, and benches or lawn chairs sufficient to accommodate at least one visitor (paying or non-paying) per every 5 hotel rooms at any one time. The overlook's structural features shall be designed to facilitate relocation as needed to respond to shoreline erosion, and their retention in situ shall not be considered justification for future shoreline protection works. The public use area shall include at a minimum the entire area of the hotel parcel falling between the bikeway route and the bluff-edge safety rail, adjusted as necessary to insure that the combined width of the bikeway and public use area is never less than 30 ft. in width as measured from the seaward (westernmost) wall of the hotel.
- c. Connecting path. A paved sidewalk or pedestrian access path for public use, at least 5 ft. in width, between the hotel's public parking area (2.a above) and the blufftop overlook (2.b above), connecting to the bikeway leading to Redondo Beach (2.d below).
- d. Coastside Bikeway segment. A hard surface (chip seal asphalt or equivalent) off-road bikeway, generally 10 feet in width, with a parallel unpaved pedestrian (jogging) path 2 feet in width, connecting the extended Miramontes Pt. Road, the blufftop overlook area (2.b above), and the southern end of Olive Avenue. Where obstacles such as wetland habitat zones prevent path construction at full width, variance may be allowed for a combined bicycle-pedestrian path which in no event is less than 8 ft. in width. Secure bicycle parking shall be provided near the hotel's public use areas.
- e. Roadside bike lanes. Bicycle lanes, or hard surface shoulders at a combined width of at least 10 ft., connecting the hotel site to State Highway Route 1. The bicycle route should be separated from Miramontes Pt. Road by barriers or landscaping. Where right-of-way constraints prevent such separation, the bike route shall be clearly marked by shoulder stripes, and automobile parking that would impair bicycle access shall be prohibited.
- f. Canada Verde beach parking. Parking spaces or pullouts along the new portion of Miramontes Pt. Road, suitable for parking for scenic viewing or beach visits, minimum 15 spaces.
- g. On-site vertical beach access. A pedestrian access path parallel to the drainage swale dividing the 18th fairway of the Ocean Colony golf course. Such access path shall connect the Miramontes Pt. parking area (2.a above) to the beach via the adjoining segment of the Coastside Bikeway. Seaward of the bikeway, the beach access path

Exhibit 2

CCC-03-CD-14-A &amp;

CCC-19-AP-01

Page 3 of 57

shall include an all-weather surface at least 8 ft. in width, with stairway from bluff edge to beach. The accessway shall be designed to avoid interference with golf play and to prevent injury to pedestrians. Appropriate design measures include excavations below grade, berming, and wire mesh safety barriers. The pathway shall be designed and located to preclude any significant disruption of existing riparian vegetation; a setback distance of at least 30 ft. shall be maintained from the existing watercourse. Any reductions of riparian vegetation or of the 30 ft. buffer area shall be offset with an equal or greater area of riparian enhancement vegetation. Signage shall be included to warn pedestrians of potential danger during periods of high surf or storm conditions (Permittee may satisfy this condition by demonstrating that equivalent off-site pedestrian access facilities including all-weather paths and stairways, linking the hotel site (Miramontes Point overlook) to the beach at the mouth of Canada Verde canyon and to the beach at the end of Redondo Beach Road, have been provided as described in Special Condition no. 3 below).

- h. Signage. Access routes, public parking, Miramontes Pt. overlook, and public restrooms shall be clearly marked for public use. The text, design and location of such signs, which shall be clearly visible, shall be subject to Executive Director review and approval prior to installation.
- i. Restrooms. An enclosed public restroom facility, equivalent to at least two portable toilets for each gender, and conforming to Calif. Dept. of Parks and Recreation standards for such facilities, shall be provided on the hotel site convenient to the Miramontes Pt. overlook or the vertical beach access path. One of the restrooms in the hotel's public areas may be identified and signed for this purpose. (Permittee may also satisfy this condition by demonstrating that equivalent off-site restroom capacity has been provided, as provided in Special Condition no. 3.f below.)

### 3. Off-site Public Access Program.

Because there will not be adequate room to provide for a satisfactory range of low/no cost recreational facilities on the hotel site, the hotel permittee shall be responsible for providing such facilities at adjacent and nearby locations. In addition to the extension of Miramontes Pt. Road, such program shall include the establishment of, and arrangements for maintenance of, public access facilities to and along the shoreline as follows:

- a. Coastside Bikeway segment. A hard surface (chip seal asphalt or equivalent) off-road bikeway, 10 feet in width, with a parallel unpaved pedestrian (jogging) path 2 feet in width, connecting the end of the on-site bikeway segment (2.d, above) at the southern end of Olive Ave. to the seaward end of Redondo Beach Road. Secure bicycle

parking shall be provided near the Redondo Beach accessway (3.c. below). Subject to the Executive Director's review and approval, the bikeway alignment may be adjusted to accommodate future uses approved pursuant to the North Wavecrest Redevelopment Plan.

- b. Canada Verde beach access paths. Pedestrian access paths and stairway connecting the hotel site and Miramontes Pt. Road parking areas to Canada Verde beach, with stairway located at or near lowest point of bluff at mouth of canyon. Path surface to be at least 5 feet in width, and improved with asphalt, decomposed granite or other surface materials for all-weather use. The hotel-Canada Verde beach path shall be located entirely seaward of the extended Miramontes Pt. Road and, unless provided otherwise by a Coastal Commission-approved South Wavecrest Redevelopment Plan or prevented by lack of ownership interest, shall be located within 100 ft. of the seaward edge of the coastal bluff top. Secure blufftop bicycle parking shall be provided for beach users. If path crosses Canada Verde stream, bridge location, design and installation procedure shall be subject to review by the Calif. Dept. of Fish and Game; appropriate stream alteration agreement or other evidence of Dept. of Fish and Game approval shall be submitted. Subject to Executive Director review and approval, the pedestrian path alignment may be adjusted to accommodate future uses approved pursuant to the South Wavecrest Redevelopment Plan, or to consolidate stream crossings on a single bridge.
- c. Redondo Beach accessway. An improved overlook, beach access stairway, and 25 space public parking facility at the seaward end of Redondo Beach Road. This amount shall be increased to 50 spaces if no on-site public parking is provided at Miramontes Pt. The improved overlook shall be handicapped-accessible. The overlook's structural design shall adhere to the same standards as provided for the Miramontes Pt. overlook (2.a above). The stairway design shall conform to applicable standards listed for vertical access (2.g above).
- d. Redondo Beach Road repairs. Resurfacing of Redondo Beach Road to provide suitable all-season access to the shoreline. Such road surface shall be of chip-seal asphalt or equivalent, minimum 32 ft. in width (except where additional grading would be needed to achieve this width), and shall meet the requirements of the City Public Works Dept.
- e. Signs and trash receptacles. Access routes, public parking, overlook, and public restrooms shall be clearly marked for public use. The text, design, and location of such signs, which shall be clearly visible, shall be subject to Executive Director review and approval prior to installation. Trash receptacles shall be provided and shall be emptied as frequently as necessary to maintain the facilities in a clean and attractive condition.

- f. Restrooms. Enclosed restroom facilities shall be provided and maintained for public use at: 1) south of the hotel site, to serve Canada Verde beach--unless one of the restrooms in the hotel's public areas is identified and signed for this purpose; and 2) the end of Redondo Beach Road. The minimum standard for each facility shall be the equivalent of two portable toilets at each site, conforming to Calif. Dept. of Parks and Recreation standards for such facilities, screened or sheltered in a manner acceptable to the City's architectural review board.

4. Implementation of On-site and Off-site Access Programs.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, detailed plans for each access feature listed above shall be provided for Executive Director review and approval. Such plans shall include any necessary supporting documents, including but not limited to the following:

- a. Within hotel applicants' property, offer to dedicate pedestrian and bicycle access easement(s) to City of Half Moon Bay, Department of Parks and Recreation, Coastal Conservancy, or other appropriate public agency approved by the Executive Director.
- b. For each trail segment and access improvement not within hotel applicant's property, either the City or the hotel applicant shall provide legal documents (such as a dedicated right-of-way, access easement, irrevocable offer to dedicate easement, binding agreement with public agency, or combination thereof) demonstrating the necessary property interest(s) for trail construction.
- c. For all offers to dedicate easement, the following procedures shall apply. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for passive recreational use and public access to and along the shoreline, as applicable. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easements shall be a minimum of 15 feet wide; and, shall encompass the Miramontes Pt. overlook public use area (2.b above), the on-site Coastside Bikeway segment (2.d above), the on-site vertical beach access (2.g above) if required, the off-site Coastal Bikeway segment (3.a above) except where located on existing public lands or street rights-of-way, the Canada Verde beach access paths (3.b above) except where located on existing public lands or street rights-of-way, and all areas of the hotel property which may fall between the toe of the bluff and the

mean high tide line of the sea. The recorded document(s) shall include legal descriptions of both the applicant's entire parcel and the easement area. The document(s) shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect said interest. The offer shall run with the land in favor of the People of the State of California binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

- d. Identification of construction schedule, funding sources and other arrangements needed to complete the approved trails, restrooms, parking and road improvements PRIOR TO OCCUPANCY OF HOTEL. While it is the responsibility of the hotel permittee to insure that the required access and low cost recreational facilities are provided, the terms of this permit shall not be construed to discourage cooperation, assistance, funding or other coordination by the City, the Calif. Coastal Conservancy, the Calif. Dept. of Recreation, or other access providers and managers.
- e. If construction of any permanent off-site public access facilities or trail segment is not possible prior to occupancy of hotel due to lack of necessary property interest, or consent by the City, the following procedure shall apply:
  - 1) The trail(s) shall be constructed over an interim alignment acceptable to the Redevelopment Agency and approved by the Executive Director. If provision of such access trails to either Canada Verde Beach or Redondo Beach is not possible prior to occupancy of hotel, vertical beach access shall be provided in the manner specified in 2.g above. Interim trails shall be designed and constructed to facilitate relocation and minimize landform alteration.
  - 2) A performance bond shall be posted, with the terms and beneficiaries subject to review and approval by the Executive Director, sufficient to construct the preferred trail alignment and to eradicate the interim route; such bond shall be adjusted annually to reflect current construction costs. The dollar amount of any necessary bond shall be calculated by the City Public Works or Parks Dept., shall not exceed inflation-adjusted costs for comparable trail construction costs in the City, and will be subject to verification by the Executive Director in consultation with the Calif. Coastal Conservancy. Alternate legally-binding arrangements to secure the permanent trail route may be substituted, subject to review and approval by the Executive Director.
  - 3) As soon as the needed property interests are acquired, by the Redevelopment Agency or by other means, the construction of the preferred trail alignment and/or access facilities shall proceed.

- 4) Upon completion of the preferred alignment, the interim alignment shall be abandoned in a manner approved by the landowner(s) and the trail management entity.
- f. A repair and maintenance program. Within permittee's property, permittee shall arrange for repair and maintenance of the trail, which shall be maintained at original width and surface quality. Permittee shall likewise be responsible for repair of and arrangements for maintenance of, the off-site access facilities installed pursuant to this permit, except where such responsibility is assumed by a public agency. Permittees may contract with public agency or others to perform this function. This obligation shall run with the land and shall be recorded in accordance with the following standard procedures:
- g. Identification of management entity. This may be the permittee, the City, the California Department of Parks and Recreation, or other authority subject to concurrence by the Executive Director. It is recognized that the management responsibility may be split, changed or reconstituted from time to time, subject to concurrence by the Executive Director.
- h. Proposed restrictions and limitations on public use; provided, however, that nothing in this condition shall be construed as requiring permittee to operate these access facilities during severe storms or other conditions presenting any unavoidable, clear and present danger of bodily harm to trail users, nor during hours of darkness commencing one hour after sunset. The management entity(ies) for the various access facilities shall post and enforce restrictions to preclude motor vehicle use of trails, restrict unleashed dogs and firearms, discourage littering, prevent open fires, and similar measures designed to promote the safety and enjoyment of the visitor experience.

Both on-site and, to the maximum extent possible consistent with available property interests, off-site public access programs shall be fully implemented PRIOR TO OCCUPANCY OF HOTEL.

5. Low cost recreational facilities/in-lieu fee

In addition to the on-site and off-site access programs listed above, permittee shall insure that a reasonable amount of low cost overnight recreational accommodations are provided as well. Because no low cost overnight accommodations are provided on-site, this obligation shall be met by construction of campground facilities, complete with flush-toilet restrooms, with sufficient tent camp sites including picnic tables and automobile parking to serve the equivalent of 20% of the hotel rooms which are constructed. Such campground facilities shall be located either within the City of Half Moon Bay

or within 5 miles of the approved hotel site; shall be ready and opened to public use PRIOR TO OCCUPANCY OF HOTEL; and shall be available at market rates or the current rate charged by the California Dept. of Parks and Recreation for comparable facilities, whichever is less. The design of the campground restroom and other associated facilities shall meet current applicable standards recommended by the Calif. Dept. of Parks and Recreation. The location, final design, and legal arrangements to insure that the campsites shall always be available at low cost for the duration of the permitted structures, shall be submitted for review and approval by the Coastal Commission WITHIN 90 DAYS FOLLOWING COMMENCEMENT OF CONSTRUCTION of the permitted hotel. Such submittal shall be accompanied by evidence of compliance with the Calif. Environmental Quality Act (CEQA) and local governmental approval; or if on federal land, equivalent review under federal law.

As an alternative, permittee may elect to comply with this condition through payment of a fee in lieu of campground construction. In such event, permittee shall make a cash deposit, in an account designated by the Executive Director, in an amount not less than \$350,000 payable to the California Coastal Commission. Such deposit shall be available for distribution to a public agency or a private non-profit association designated in writing by the Executive Director of the Coastal Commission (including, but not limited to, the Calif. Dept. of Parks and Recreation) for the acquisition of land and/or construction of low cost visitor serving overnight accommodations within or near the City of Half Moon Bay. Such funds shall be deposited, beginning with 10% of the total due PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, and the balance PRIOR TO OCCUPANCY.

Provision of campground facilities and/or in-lieu fees may be phased in tandem with, and proportionate to, the number of hotel rooms approved for construction under any phase of the approved project.

6. Prohibition on Conversion to Exclusive Use.

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence to the Executive Director that a deed restriction has been recorded for the hotel site which indicates that this coastal permit authorizes the development of a 350 unit resort hotel, which is a proposed visitor serving use exclusively available to the general public. Furthermore, the deed restriction shall specify that conversion of any portion of the approved facilities to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public is specifically not authorized by this permit and would require an amendment to this permit or a new permit and/or amendment to the certified LCP in order to be effective.



7. Geologic Hazards: Waiver of Liability, Assumption of Risk.

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction or other document in a form and content acceptable to the Executive Director which shall provide: (a) that the applicant understands that the project site may be subject to extraordinary natural and manmade hazards including but not limited to shoreline erosion, structural failure, earthquakes and related seismic hazards and other geologic conditions; and, (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission approval of the project for any damage caused by the project and/or due to natural or manmade hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens. In accepting this permit, permittee acknowledges that there is no entitlement to shoreline protection works at end of project life or in event of unexpected rates of erosion. Permittee may have to dismantle portions of hotel and reroute bikeway in such event.

8. Containment of debris and construction impacts.

Temporary exclusion fencing (9.b below) shall be in place before grading. Location of such fences shall be flagged in the field and shall be subject to Executive Director review and approval PRIOR TO COMMENCEMENT OF GRADING. No disposal of spoils or debris over cliff shall be allowed. Disposal location of excess spoils and debris shall be subject to Executive Director review and approval if within the Coastal Zone.

9. Review of Final Plans

Final construction, grading, drainage, erosion control and landscaping plans shall be submitted for Executive Director review and approval PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT.

- a. Maximum height of hotel shall not exceed 36 ft. above finished grade, except for towers which shall not exceed 58 ft. above finished grade.
- b. Grading plan shall show location of temporary exclusion fence for protection of riparian habitat and sensitive bluff edge area.
- c. Drainage and erosion control plan to include measures for prevention of saturation and gullyng of bluff edge, on and off hotel site. Also show discharge points and energy dissipation methods for drainage from Miramontes Point Road.
- d. Site plans shall show revised hotel, bungalow, road, parking, and tennis court siting, particularly as may be required to accommodate the required on-site access program.



- e. Construction plans for on-site and off-site access improvements shall be included.
- f. Plans for Miramontes Point Road shall be accompanied by encroachment permit, if required by Caltrans, and shall detail any changes to the configuration of Highway 1 that may be needed to serve this project.
- g. Landscape plans shall conform with City of Half Moon Bay Land Use Plan standards, and shall include details of the proposed wetland mitigation planting program (species, location, installation procedures, monitoring). The wetland mitigation program shall be accompanied by evidence of review and approval by the Calif. Dept. of Fish and Game, and shall implement the recommendations of the "Concept Mitigation Plan" contained in the biologic report of 10/1/90 by Dr. Mills.

10. Measures to Assure Adequate Sewage Treatment Capacity

- a. The permitted development shall not preempt or deplete sanitary sewer capacity needed by developments previously approved by the Coastal Commission. Accordingly, the project will be reduced to a maximum of 275 guest rooms until permittee demonstrates to the satisfaction of the Commission that a greater number is warranted on the basis of a) increased sewer treatment system capacity, b) decreased demand (such as availability of abandoned sewer connections), c) expiration of prior permits, or d) comparable measures which will assure adequate sewer capacity for all projects previously approved pursuant to coastal development permits within the City of Half Moon Bay portion of the Sewer Authority Midcoastside (SAM) service area. In event the Commission confirms the availability of the necessary sewage treatment capacity, final plans for the remaining units shall be provided to the Executive Director for review and approval as provided by Special Condition No. 9 above.
- b. In order to determine actual effluent flow rates from this project, a recording sewage flow meter shall be installed and maintained in a manner satisfactory to the City Engineer.
- c. Until the Commission confirms the availability of the necessary additional sewage treatment to serve all 350 units at full occupancy, the following procedure will apply. If, on a calendar year basis, average daily flows from this development exceed 33,000 gallons per day (gpd), permittee shall provide to the City of Half Moon Bay or Sewer Authority Midcoastside (SAM), funds sufficient to offset the added costs of treating the excess effluents. Such funds shall be deposited in an account specifically earmarked for treatment capacity improvements. The actual pro-rata amount of such required deposit

shall be based on cost estimates provided by SAM, but for purposes of this condition are limited to a maximum of ten thousand dollars (\$10,000.) per year for each 1,000 gpd in excess of the 33,000 gpd average annual base rate.

#### 11. Entrance Sign(s).

Plans for the entrance sign(s) shall be submitted for review and approval by the Commission, and shall be accompanied by evidence of approval by the City's Architectural Review Board.

#### IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Background and surrounding land use. Located near the southern end of the City of Half Moon Bay, this development will comprise the only large destination resort hotel between the San Francisco and Monterey Bay urban areas. The project as currently proposed includes 350 hotel rooms, divided between the main hotel building and a number of outlying bungalow units. The hotel developer (Half Moon Bay Resort Partners, applicant) has proposed phasing of the project in order to address concerns regarding sewer treatment capacity. The initial phase would be limited to 275 rooms, distributed as described in Exhibit C, attached.

Additional developments which are part of this resort project include demolition of existing minor structures, grading, drainage systems, on-site roadways and parking; restaurant and banquet facilities, ballroom, meeting rooms, and health spa within the hotel; renovation of existing recreation club, tennis courts, golf pro shop and grill, swimming pool, putting green, access and golf cart paths, wetland mitigation plantings and landscaping. In addition, Miramontes Point Road, part of the city street system, will need to be extended from its present terminus approximately 1900 ft. in order to provide access between State Highway Route 1 and the hotel site. Because there are various intervening ownerships who are not parties to this permit application, the City (which has the power of eminent domain) has become a co-applicant with respect to the extension of Miramontes Point Road. This permit does not include the proposed off-site stairway on the face of the coastal bluff at Miramontes Pt.

This project also includes a subdivision of land for the purpose of separating the hotel property from the reconfigured Colony Club development. Ocean Colony presently includes many exclusive single family homes and condominium units clustered around an existing 18-hole golf course. A 414-unit resort hotel was originally anticipated as well; although substantial site grading and

foundation work was completed, and a claim of vested rights secured under the Coastal Act of 1972, the project was never completed. This same site, the coastal bluff promontory known as Miramontes Pt., is now proposed for the current 350-unit hotel project, of an entirely different design.

Except for the existing Ocean Colony recreation club and tennis courts, and associated structures, the proposed hotel site is now essentially vacant land. It occupies a gently rolling coastal terrace, which ends abruptly in a high bluff at ocean's edge. The site drains into a small watercourse, which was severely altered during the previous hotel development effort. To the north, the coastal terrace extends several miles; the portion adjoining Ocean Colony is nearly vacant, although it has been divided into numerous small lots located along "paper" streets. This area of antiquated subdivisions, accessed by the existing Redondo Beach Road, is now included in the City's North Wavecrest Redevelopment Area.

To the south is a similar area of antiquated subdivisions, encompassed by the South Wavecrest Redevelopment Area. This area is drained by a canyon known as Canada Verde, and is also largely undeveloped except for existing mobile home and recreational vehicle parks. In addition to the extension of Miramontes Pt. Road, the Redevelopment Agency anticipates residential development and golf courses for both redevelopment areas.

2. Public Access and Recreation. The California Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide low cost recreational facilities, particularly in new development projects. Applicable Coastal Act policies include, but are not limited to, the following:

Section 30210

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

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. ...

#### Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, or overcrowding or overuse by the public of any single area.

#### Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Neither the commission nor any regional commission shall either: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate-income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

#### Section 30214

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter. ...

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The proposed resort complex intends to welcome general public use, and by providing ocean-oriented overnight accommodations, will greatly increase the number of such units available on this part of the coast. As a visitor-serving commercial recreational facility, it clearly qualifies as a priority use under Coastal Act Section 30222. And, to insure that the project remains in conformance with this policy section, this permit is conditioned to prohibit conversion to exclusive use.

Applicant's Access Mitigation Plans. The Miramontes Point promontory represents one of the best coastal viewpoints in Half Moon Bay. The proposed luxury hotel and supporting development will occupy nearly all of this blufftop site. General public access across the site whether existing or potential, will be permanently interrupted by the hotel complex. Lateral access at the toe of the bluff is not reliable, as the ocean frequently impacts the cliff and precludes lateral movement.

The hotel applicant has forwarded a public access proposal which includes a lateral coastal trail running parallel to Miramontes Point Road and extending to an overlook area seaward of the hotel building, then continuing northward behind the 18th fairway of the Ocean Colony golf course and tennis courts via an existing access easement to the northern boundary of Ocean Colony. The proposal also includes a connection to a portion of the hotel parking area to be reserved for non-guest use. And, plans have been submitted for a vertical accessway, partially below grade, parallel to the drainage swale crossing the 18th fairway of the Ocean Colony golf course.

On-site Vertical Access and alternatives. While the 18th fairway location represents the most feasible location for on-site vertical access, the hotel applicants have made it clear that this is not their preferred location for access by either hotel guests or the general public. Although safety screening and landscaping can be feasibly employed to mitigate golf course hazards, the beach destination at the base of the bluff is too small to accommodate anticipated use levels. During high tide and heavy surf

conditions, the area of usable beach has disappeared altogether. Excellent alternative, off-site beach destinations bracket the hotel site on the north (starting near Redondo Beach Road and extending several miles northwards to include Half Moon Bay State Beach) and on the south (the smaller, more secluded beach at the mouth of Canada Verde).

Need for coordinated on-site and off-site access programs. At present, there is significant public use of these off-site beach areas. However, such use is impaired by lack of paved access roads and defined parking areas; absence of restrooms and trash collection; and steep, eroding bluff faces without stairways. Further, lateral access is impaired by fences and lack of through trail. Although the existing network of "paper" streets and existing public access trail easement across the Ocean Colony property together represent a possible way to achieve public lateral access, as well as beach access for hotel patrons, establishment of optimum trail routes to both the Redondo Beach and Canada Verde beach areas will require involvement of landowners who are not parties to this permit.

Therefore, this permit is conditioned to require both on-site and off-site access programs. On-site parking, blufftop overlook, restrooms, bicycle paths, pedestrian paths, and vertical accessway are included for the hotel parcel. Also included in the on-site program are parking, pathways and bicycle lanes within the Miramontes Pt. Road corridor. Because the size of Canada Verde beach limits its total capacity, considering the existing and potential resident user population, the number of spaces required for Canada Verde beach access (15) is based on the maximum observed number of automobiles on the existing dirt surface parking areas.

The required off-site public access program includes beach access paths and stairs linking the hotel and public parking areas to Canada Verde beach; a continuous bikeway and pedestrian route between Miramontes Pt. Road, Miramontes Pt. overlook, the hotel, and Redondo Beach Road; parking, road repairs, improved overlook, and beach access stairs at Redondo Beach Road; and public restrooms to serve each of the two beach destinations. Provision is made for interim routing of access trails pending acquisition of preferred routes, as well as future adjustments in trail routing upon implementation of redevelopment plans for each respective area.

Relief from on-site access obligations. In event that applicants are successful in acquiring the necessary property interests for completion of the off-site access program and demonstrate that such access has been made available to the public, they will be released from certain obligations to provide less desirable on-site access. Specifically, provision of comparable additional facilities at the Redondo Beach public parking area and repair of Redondo Beach Road will offset the need for similar facility on the hotel premises; provision of improved beach accessways to Redondo Beach and Canada Verde beach will eliminate the need for a vertical access route across the existing 18th fairway; and provision of off-site public restrooms will relieve the requirement for on-premises public facilities.

Distribution of visitor use, implementation of LUP. These access programs are needed to properly accommodate hotel guests, as well as existing and future public use; it can be anticipated that hotel guests, even without off-site access improvements in place, will seek out the superior off-site beaches. Accordingly, a substantial impact on these off-site beach areas can be expected. By improving and providing for proper upkeep of both of these off-site beach access areas (Redondo, Canada Verde), the impacts of increased use will be offset and visitor use will be better distributed as required by Coastal Act Section 30212.5.

The required access programs will also help to implement the City's certified Local Coastal Program Land Use Plan (LUP). Completion of the Coastal Bikeway route and public parking facilities at Redondo Beach Road and near Canada Verde beach, as shown by the LUP, will insure that these important public access components are carried out.

Lower cost recreational facilities. In addition to the required public access programs, this permit is conditioned to provide for off-site, low-cost overnight visitor accommodations. Such accommodations are necessary to establish a balanced inventory of public recreational opportunities, accessible to a broad range of personal incomes. Similar resort hotel projects have been conditioned to provide low cost overnight accommodations; for example, the Ventana Inn (60 units total) in Big Sur (coastal development permit no. 3-82-171) provided the equivalent of 27 campsites, and the 450-unit Monaghan project at Rancho Palos Verdes will provide \$540,000 for the expansion and rehabilitation of hostel facilities (appeal no. A5-RPV-91-46).

For this project, it is appropriate that such accommodations be in the form of campsites and supporting parking and restroom facilities, in an amount equivalent to 20% of the capacity of the constructed hotel rooms. Because no low-cost overnight accommodations are provided on-site, and because the hotel and ancillary facilities will occupy the entire development site, an off-site location is needed. Suitable locations appear to be available on nearby State Park lands, as well as private lands. However, because the cooperation of other governmental agencies and landowners not party to this permit is required to establish such off-site overnight accommodations, the conditions of this permit allow the substitution of fees in lieu of actual campground construction.

Conclusion. Accordingly, the provision of low cost campground facilities, along with no-cost public parking, restrooms and other elements of the public access programs required as conditions of this permit, will provide for conformance with Coastal Act Sec. 30213 regarding lower cost public recreational facilities. The required public access programs will also provide for conformance with Coastal Act Sections 30210, 30212, 30214 and 30223, regarding provision of access, including upland support facilities, to and along the coast.

3. Public Works Capacities, Water Quality. Coastal Act Section 30250 requires that new development not exceed the ability of public services to accommodate such development, particularly where significant individual or cumulative adverse impacts on coastal resources would result. Coastal Act Section 30252(3) requires that non-automobile circulation be provided within the development, and Section 30252(4) requires the provision of adequate parking. Section 30254 requires that where public works facilities can only accommodate limited additional development, services to priority uses will not be precluded by other development. And, Sections 30230 and 30231 require that the marine environment and water quality be protected by various means, including minimizing the adverse impacts of wastewater discharges and preventing depletion of ground water supplies.

The three principal public works capacity issues for this project are automobile circulation, water supply, and wastewater disposal capacity. The project's certified EIR addresses each of these issues, although subsequent information regarding sewer treatment capacity is detailed below. Where capacity is limited, this project will have priority because it comprises a visitor-serving commercial recreation use.

Traffic congestion. According to correspondence from the EIR's traffic consultant, while Highway 1 has a finite capacity, the additional traffic generated by the hotel will not degrade the existing level of service. Various measures in the City's permit, such as extension of Miramontes Pt. Road, provision of parking, and intersection improvements, address the issue of traffic circulation. Additionally, street repairs and public parking on Redondo Beach Road, public parking for Canada Verde beach, and establishment of the southern segment of the City's planned Coastside Bikeway will provide for conformance with Coastal Act Section 30252 regarding parking and nonautomobile circulation.

Water supply. The City's existing water shortages are expected to be relieved, in part, by the completion of the Crystal Springs pipeline project which is expected to be on-line by 1992. Water service for this project will be provided by an existing, paid-for connection to the Coastside County Water District (CCWD) system. Therefore, CCWD's moratoria on new connections does not apply. According to the EIR, currently-allocated water supplies will be adequate for the proposed use and groundwater supplies can be maintained consistent with Coastal Act Sec. 30230.

Sewage treatment considerations. Sewage effluent produced by this project will be handled by the Sewer Authority Midcoastside (SAM) treatment plant. This plant has a rated capacity of two million gallons per day (2.0 mgd), of which the City of Half Moon Bay's share is considered to be 1.0 mgd. Expansion of the plant to increase its maximum capacity would be subject to approval of new discharge standards by the Regional Water Quality Control Board (RWQCB), as well as amendment of the existing coastal development permit. Such expansion is not yet a certainty, as the plant is constrained by



its location relative to adjacent environmentally sensitive wetland and riparian habitat; and, no permits have yet been requested or approved by any of the several involved State and Federal agencies having jurisdiction over land use, water quality and endangered species.

Earlier this year (1991), it was discovered that while the SAM plant had not yet reached its total rated output, it appeared to have nearly reached its capacity to handle the solids portion of the effluent flow. In response, the SAM Board asked each of its member agencies, including the City of Half Moon Bay, to adopt precautionary measures. The City responded with a sewer connection moratorium for virtually all new projects. An exception recognizes existing commitments and priorities by granting an exception for this hotel project. During the moratorium, the SAM plant will undergo "stress testing," adjustments to processing procedures and the like to determine how much additional solids capacity is actually available at the plant. A change in the chemical process has already yielded a modest improvement; the preliminary stress test results are expected in Nov. 1991, and may reveal additional safe operating capacity. At present, the City's share of current estimated capacity--with a 15% drought rebound factor--is 899,000 gpd (per SAM technical consultants).

Under an existing agreement (known as the Verderame judgement), the City is committed to provide the hotel with sewage treatment services equivalent to 150 single family residences, i.e., 33,000 gpd. This is approximately the same as the sewage treatment demand estimated by the project's technical consultants for the 275 unit Phase I of the project; the actual estimate is 33,161 gpd average daily flow at 70% occupancy. For 100% occupancy (not expected most of the time), average daily flow is estimated to be 48,681 gpd.

The following table summarizes available capacities and service requirements according to current information in Commission files:

TABLE I

(all flows rounded to nearest 1,000 gpd)

City share of total permitted SAM plant capacity	1,000,000 gpd
Estimated limit based on current solids treatment capacity	899,000 gpd
Existing flow (July 1991)	-728,000 gpd
Assumed 15% drought rebound allowance	-109,000 gpd
Net available capacity	62,000 gpd
Vested residential units per CDP (47x220 gpd)	-10,000 gpd
Vested motel units per CDP (72x110 gpd)	- 8,000 gpd
Other residential units approved per CDP (44x220 gpd)	-10,000 gpd
Net available to this hotel project	33,000 gpd

Note: Table does not attempt to include such additional variables as capacity increases due to improved plant operating procedures, current repair work on cracked sewer mains to prevent groundwater inflows, or borrowing of treatment capacity allocations from other SAM member agencies; nor does it account for the City's service obligations to other residences under construction pursuant to Calvo exclusions or future construction pursuant to the Stonepine development agreement.

Exhibit 2

CC-03-CD-14-A &

CC-19-AP-01

Page 19 of 57

Based on the foregoing information, it is concluded that there is only a limited amount of remaining sewage treatment capacity for the City of Half Moon Bay. The proposed development comprises a priority use as provided in Coastal Act Sec. 30254; through a specific exception to the sewer connection moratorium, priority has been given to this project. And, considering capacity improvements already underway, the amount of uncommitted remaining capacity appears sufficient to serve a portion of this project (i.e., Phase I, 275 units) at expected typical occupancy rates.

However, because these conclusions are based on reasonable projections and expectations rather than observed performance, it is possible that actual average daily flows from the hotel project may exceed the actual available capacity. This would happen if for example the actual occupancy rate of the hotel were greater than 70%, or the treatment plant interim improvements and sewer main repair programs do not yield enough capacity to cover the City's Calvo and Stonepine obligations.

Therefore, in order to address any such unexpected eventuality and to insure conformance with Coastal Act Sections 30230 and 30250, this permit is conditioned to require that permittee offset those shortfalls that can be directly attributed to approval of this project or to specific operational practices at the hotel. This permit is conditioned to limit the number of hotel units to 275 (i.e. Phase I) until the present sewage treatment capacity limitations are lifted. This limitation is necessary to accommodate projects which were previously approved under coastal development permits but which have not yet been able to secure sewer connection permits from the City; the number of currently valid permits in this category, all of which are for residential units, is believed to be 44. Using current accepted water use ratios, the sewage capacity demand of the 75 hotel units to be constructed after Phase I would be sufficient to cover approximately 38 of these permits. The remaining 6 are expected to be covered by current improvements to the sewage treatment system.

Also, in event actual sewage flows are in excess of predicted levels, and in order to provide an incentive for conserving water supplies and wastewater treatment capacity, permittee is required to offset the impacts of excess flows (above the base level of 33,000 gpd). Because excess flows can be attributed to, and controlled by, specific operational practices at the hotel, it is appropriate to require the hotel permittee to financially contribute, in such event, to the upgrading of the existing sewage treatment system. Without such measures, the hotel could--on a cumulative basis along with other developments already approved in Montara, El Granada, and Half Moon Bay--effectively overwhelm the remaining treatment capacity of the SAM plant.

The primary consequence of overloading this particular sewage treatment plant would be an adverse wastewater discharge into nearby coastal waters. Therefore, the requirement of this permit to meter the hotel's sewage outflows and to provide a financial offset for excess flows is necessary to insure conformance with Coastal Act Sections 30230 and 30231 regarding wastewater discharges and the protection of the marine environment.

4. Visual Resources. Coastal Act Section 30251 provides:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic area such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

While the proposed hotel structure will not be seen from Highway 1, it will be visible from two adjacent beach areas. The City's Land Use Plan (LUP) provides:

Policy 7-2

Blufftop structures shall be set-back from the bluff edge sufficiently far to ensure that the structure does not infringe on views from the beach and along the blufftop parallel to the bluff edge except in areas where existing structures on both sides of the proposed structure already impact public views from the beach or along the blufftop. In such case, new structures shall be located no closer to the bluff edge than adjacent structures.

The hotel buildings will typically be two to three stories in height. Given the limitations of the parcel and exposed blufftop location, resiting of the structure would not conceal these relatively large buildings. An important mitigating circumstance is that while the beach immediately seaward and upcoast from the hotel will be substantially impacted by the main hotel buildings, it is often not usable by the public due to high tides or high surf. Therefore, this vantage point can be discounted as a beach viewpoint.

A more distant view impact may result from the direction of Canada Verde beach. As shown in the EIR's "visual simulations," the roofline of the hotel will lie along the distant horizon as seen from this beach area (see Exhibit G, attached). Because this impact is relatively minor, and effective resiting is infeasible, the Commission finds that the proposed development will not "infringe" on views from the beach.

Therefore, as conditioned to incorporate City permit conditions, to define maximum building height, to require Executive Director review of final plans including landscaping plans, and submission of entrance sign(s) for separate Coastal Commission review, this project will conform with the requirements of Coastal Act Section 30251.

5. Geologic hazards. Coastal Act Section 30253 states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) 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 landforms along bluffs and cliffs. ...

The project is sited atop a prominent coastal terrace; at the south edge of the project the coastal bluff face rises as much as 70 feet above the ephemeral beach. A Geotechnical Feasibility Study has been completed for the site (Harding Lawson Associates, 12/18/89), as well as a follow-up analysis (letter of 2/13/91) in response to Coastal Commission staff concerns regarding the Draft EIR. These studies give an average value of 11 inches per year for shoreline erosion at Miramontes Point, within a predicted range of 7 to 15 inches per year. Accordingly, the proposed blufftop setback of 80 feet should be sufficient for the stated 50 year life of the project; at one foot per year, it will be feasible to maintain a 30 ft. public use area and overlook seaward of the hotel building.

The geotechnical reports also point out the hazards of surface water erosion. An off-site gully, for example, cleaves the highly erodable coastal bluff to within approximately 30 ft. of the hotel site. To minimize surface water erosion, and to halt further gullying, it will be important to direct all drainage away from the bluff edge.

Therefore, as conditioned to provide for containment of construction spoils, recordation of geologic hazards notice, and submission of final construction, grading, drainage and erosion control plans, the project can be found in conformance with Coastal Act Section 30253 regarding geologic stability.

6. Environmentally sensitive habitat. The drainage swale which crosses the project site has been severely graded by past construction activity. Nonetheless, a permanent pond has been established, and willows and other riparian vegetation have revegetated portions of the site. In recognition of this isolated area's value as environmentally sensitive habitat, the hotel design has been shifted to maintain a 30 foot setback from the pond, the minimum distance specified in the certified LUP.

In a biologic report prepared as a follow-up to the Draft EIR (G. Scott Mills, Ph.D., 10/1/90), the main remaining impacts of the development are characterized as the removal of a single clump of arroyo willows plus construction disturbance within the buffer zone. This impact will affect less than 1% of the site.

Exhibit 2  
CCC-03-CD-14-A &

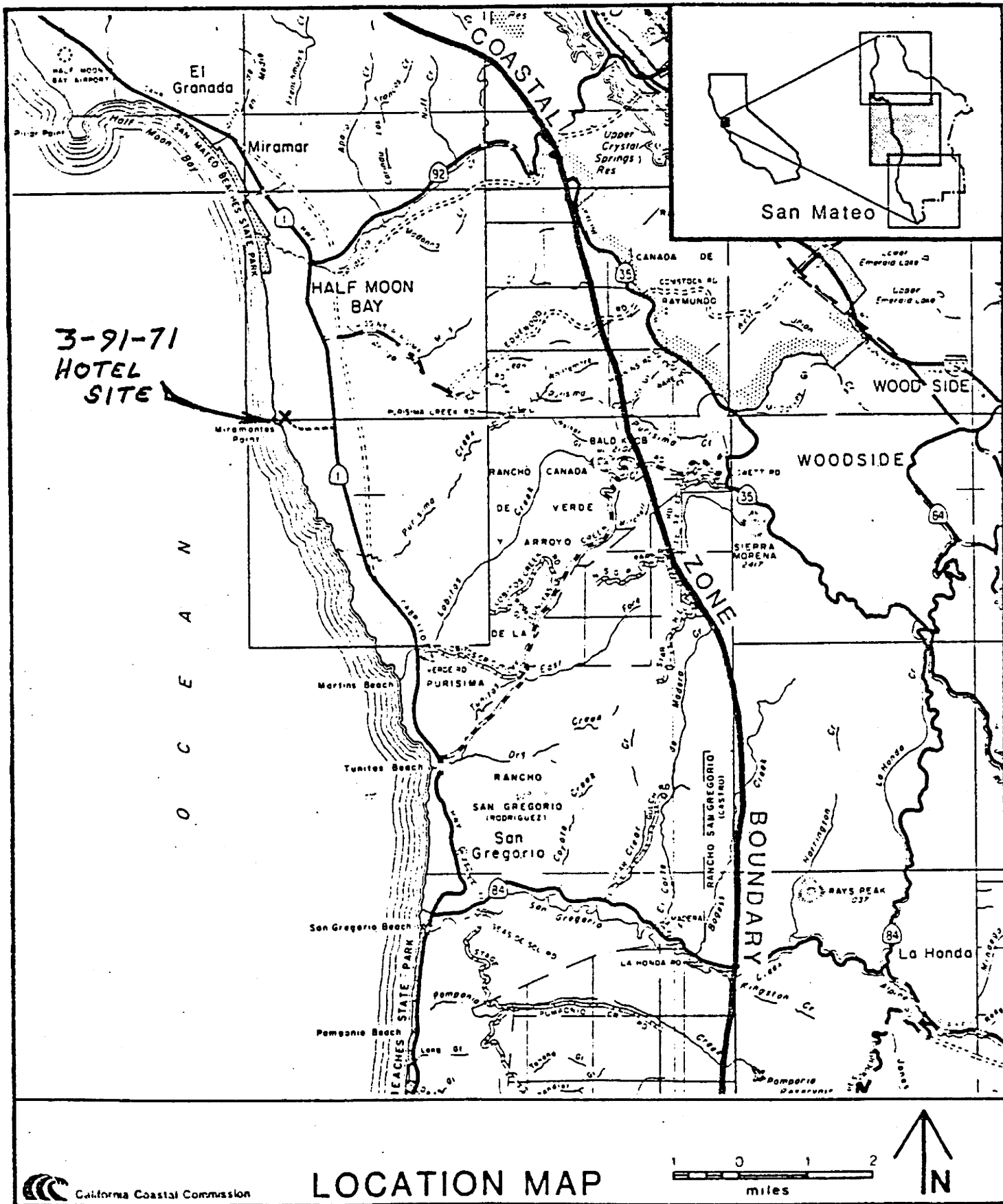
CCC-19-AP-01

Page 22 of 57

than 5% of the riparian habitat, and can be offset through a riparian revegetation program such as that detailed in the biologic report's "Concept Mitigation Plan." Therefore, as conditioned to implement such revegetation in the site's landscaping program, this project will protect the environmentally sensitive habitat area; and, will conform with Coastal Act Sections 30231 regarding natural vegetation buffer areas that protect riparian habitats, and 30240(b) regarding development adjacent to environmentally sensitive habitat areas.

7. LUP/CEQA. The proposed hotel development and road extension are consistent with the uses specified for this site by the City's Local Coastal Program Land Use Plan (LUP), certified Sept. 24, 1985. The City staff conducted an analysis of applicable LUP policies in their review of this project. Various mitigation measures were identified for LUP conformance; these are included in the City's permit conditions, attached as Exhibit B and incorporated as conditions of this permit. Accordingly, as conditioned, this approval will not prejudice the City's ability to complete its Local Coastal Program in conformance with the policies contained in Chapter 3 of the Coastal Act.

A Final Environmental Impact Report (EIR), dated Jan. 11, 1991, is available for this project. The EIR prescribes a variety of mitigation measures, which have been incorporated in the City's permit conditions (Exhibit B). This Commission finds that this project will have additional potential impacts on the availability of lower cost recreational facilities, public access, and water quality (sewage treatment capacity) for which alternatives were not previously considered. As conditioned, these additional impacts and alternatives will receive appropriate consideration. Therefore, as conditioned, conformance with the requirements of the California Environmental Quality Act (CEQA) will be completed.



County of San Mateo

Exhibit 2  
Sheet 2 of 3  
CCC-03-CD-14-A &  
CCC-19-AP-01  
3-91-71  
Page 24 of 57

# EXHIBIT-A

## RECOMMENDED CONDITIONS

### STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXHIBIT NO. A	
APPLICATION NO.	
3-91-71	Exhibit 2
HALF MOUNTAIN CREEK RESORT & CCC-19-AP-01	
Standard Conditions	
Page 25 of 57	

EXHIBIT B

FINDINGS AND CONDITIONS OF APPROVAL

OCEAN COLONY PLANNED UNIT DEVELOPMENT HOTEL SITE

Site and Design Permit PSD 19-89 Findings:

1. That the Planning Commission and City Council have determined that the buildings, plantings, paving, and other improvements have been designed and will be constructed in such a manner that they will not be unsightly or obnoxious in appearance to the extent that they will hinder the orderly development of the City, impair the desirability or opportunity to attain the optimum use and value of the land and the improvements, impair the desirability of living or working conditions in the same or general areas and/or otherwise adversely effect the general prosperity and welfare of the community.

Site and Design Permit PSD 19-89 Conditions:

1. That development shall be in substantial conformance with the approved site plan, floor plans, and elevations, except for any changes that may be required by these conditions of approval. In the event that the California Coastal Commission imposes conditions of approval that result in modifications to the site plan, floor plans, or elevations, the Planning Director shall determine if these changes warrant reconsideration by the Planning Commission and City Council. In the event it is determined that the Coastal Commission approval requires the City to amend any of the conditions imposed as a part of approving this Site and Design Permit, Use Permit 14-90, Subdivision 03-90, or the Amendment to the Ocean Colony Planned Unit Development Ordinance, REZ-02-90, such changes will be considered at a duly noticed public hearing by the Planning Commission, and if necessary, the City Council.
2. That prior to the issuance of any grading or building permits, the applicant shall present the final site plan, floor plans, and elevations to the Architectural Review Committee for final review.
3. That development of the site and the use and operation of the buildings and other improvements on the property shall at all times be in conformance with the final conditions of approval of Rezoning 02-90; Use Permit

(CITY'S CONDITIONS)

HALF MOON  
BAY RESORT  
HOTEL

Exhibit 2

CCC-03-CD-14-A-8
EXHIBIT NO. B
CCC-19-AP-01
APPLICATION NO.
3-91-91
Page 26 of 57
California Coastal Commission



14-89; and Subdivision 03-90, and the Coastal Development Permit.

4. That prior to the issuance of any grading or building permits the applicant shall secure a Coastal Development Permit.
5. That the final building plans shall reflect the approved ratio of 53% building and impervious surfaces, including parking areas, and 47% landscaping or other natural areas. If necessary to provide the minimum 600 parking spaces required, the sub-grade or enclosed parking garages shall be expanded below the surface of the parking lots in order to provide the required number of spaces without increasing the impervious surface on the site.

Use Permit 14-90 Findings:

1. That as conditioned, the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
2. That the Planning Commission and City Council have found that the proposed development is in conformance with all applicable policies of the City's Local Coastal Program Land Use Plan, all Elements of the City's General Plan, and upon adoption of the amendments to the Ocean Colony Planned Unit Development Ordinance, will be in conformance with that ordinance.

Use Permit 14-90 Conditions:

1. That development shall be in substantial conformance with the approved site plan, floor plans, and elevations, except for any changes that may be required by these conditions of approval. In the event that the California Coastal Commission imposes conditions of approval that result in modifications to the site plan, floor plans, or elevations, the Planning Director shall determine if these changes warrant reconsideration by the Planning Commission and City Council. In the event it is determined that the Coastal Commission approval requires the City to amend any of the conditions imposed as a part of approving this Use Permit, Site and Design Permit 19-89, Subdivision 03-90, the requested amendment to the Ocean Colony Planned Unit Development Ordinance, REZ-02-90, such changes will be considered at a duly noticed public hearing by the Planning Commission, and if necessary, the City Council.

Exhibit 2

CCC-03-CD-14-A &

CCC-19-AP-01

Page 2 of 71

EX B 10-11

2. That all uses and activities on the site shall be in conformance with the final Conditions of Approval of this Use Permit, Subdivision 03-90, and Rezoning 02-90.
3. That all activities and uses on the site shall be in conformance with the Ocean Colony Planned Unit Development Ordinance as amended and the City's General Plan. Should a question arise as to compliance with this condition, the Planning Director shall make a preliminary determination based upon a written request or complaint. Should the Planning Director be unable to resolve any issue as to conformance with the Ocean Colony Planned Unit Development Ordinance, as amended, and the City's General Plan, the issue shall be forwarded to the Planning Commission for a determination.
4. That the Planning Commission, at a duly noticed public hearing, may add to or modify conditions of approval to this Use Permit, or recommend to the City Council the revocation of this Use Permit, upon a determination that the hotel operation or any ancillary use on the site permitted by this Use Permit, causes injury, or is detrimental to the health, safety, or general welfare of the City in general or the residents of the Ocean Colony Planned Unit Development.
5. That prior to the issuance of any grading or building permits the applicant shall secure a Coastal Development Permit.
6. That off-site advertising signs shall be prohibited unless an amendment to this Use Permit and Policy 7-3 of the City's Certified Local Coastal Program Land Use Plan is approved by the City and California Coastal Commission.
7. That because the City does not have the financial and technical resources available to perform the necessary plan check and on-site inspection for a development of this magnitude, the applicant shall agree to pay all direct costs, indirect costs, and overhead incurred by the City in contracting for the plan check and on-site inspection process for the proposed development.
8. That the maximum period of occupancy by any individual patron, group, or family in any bungalow unit shall be 30 days at any one time.
9. That all employees that drive personal vehicles to the site for work shall park on the hotel site at all times, unless a suitable off-site location is approved by the Planning Commission that provides safe and convenient access to the hotel complex and is

Exhibit 2  
CCC-03-CD-14-A &

CCC-19-AP-01

3-91-71  
Page 28 of 61

EX. B (con't)

adequately screened from public views, and any other conditions recommended by the Planning Commission. Any request for an off-site parking location for the employees at the hotel complex may be considered as a Discussion Item by the Planning Commission.

10. That the building and development plans shall include adequate provisions for an on-site recycling program. A recycling plan shall be prepared in conjunction with the franchised scavenger company, and shall be reviewed and approved by the City Engineer prior to the issuance of building permits.
11. Trash compactors shall be installed in all kitchens and food preparation areas or as otherwise approved by the City Engineer.
12. The exterior of the resort hotel shall be lit at night to provide adequate visibility and to allow for police surveillance. Lighting design should be sensitive to the surrounding residences and the beach vistas. Light spread outside of the site shall be controlled by using glare-free fixtures with a positive cut-off above the horizontal plane of the fixture.
13. That all exterior and area lighting, including tennis court lighting, shall be designed to minimize glare to adjacent land uses, and to reduce the impact of said lights on coastal views.
14. The resort hotel shall have private security guards to reduce the number of police service calls and to reduce the number of crimes that could occur at the hotel.
15. That the project operator shall make every attempt to encourage the use of commercial busses and high occupancy vehicles to provide transportation from area airports for those guests attending conferences at the site.
16. That the final building plans shall reflect the approved ratio of 53% building and impervious surfaces, including parking areas, and 47% landscaping or other natural areas. If necessary to provide the minimum 600 parking spaces required, the sub-grade or enclosed parking garages shall be expanded below the surface of the parking lots in order to provide the required number of spaces without increasing the impervious surface on the site.
17. That the license agreement between Half Moon Bay Resort Partners (the applicant) and North Wavecrest Partners L.P., providing for the use of specific property in the North Wavecrest area as an off-site parking location

Exhibit 2

CCC-03-CD-14-A &

CCC-19-AP-01

Page 20 of 77

3-9-77

dated November 26, 1990, and executed November 29, 1990, shall be recorded as a deed restriction against the off-site location, with the form and content subject to the approval of the City Attorney. At such time as the agreement is terminated, the hotel operator shall so inform the City and the need for additional parking shall be addressed by the Planning Commission at that time at a noticed public hearing.

18. That the hotel manager shall designate a specific employee to monitor the hotels parking needs. The designated hotel employee shall inform the Planning Director of all major events that may impact the parking supply as they are scheduled, including conferences and tournaments occurring at the same time. Specific provisions for the use of the off-site parking lot and shuttle service, and the on-site parking attendants shall be addressed on a case by case basis. This condition shall be reviewed in conjunction with Planning Commission consideration at the time the aforementioned license agreement expires.

Rezone 02-90 Findings:

1. That the Planning Commission and City Council have found and determined that the proposed amendment to the Ocean Colony Planned Unit Development Ordinance so as to permit a three story building where a maximum of two stories at any point above adjacent grade as originally permitted will result in a reduction of the visual impact of the development by the clustering of a portion of the development onto a smaller building pad.
2. That the Planning Commission and City Council have found and determined that the proposed amendment to the Ocean Colony Planned Unit Development Ordinance so as to permit the utilization of a "shared parking plan" where parking was originally required to meet all of the parking standards of the City of Half Moon Bay Municipal Code, will, upon adoption of the amendments to Section 3. F. "Parking" of the Ocean Colony Planned Unit Development Ordinance, provide adequate and acceptable parking for typical conditions and for those special events and circumstances when other arrangements are required such as the use of valet parking and/or the use of off-site locations and shuttle services.
3. That the Planning Commission and City Council have found that the proposed amendments to the Ocean Colony Planned Unit Development Ordinance are in conformance with all applicable policies of the City's Local

Coastal Program Land Use Plan and all elements of the City's General Plan.

4. That an Environmental Impact Report (EIR) has been prepared for this development in accordance with the California Environmental Quality Act. Based upon the information contained therein, it has been determined that this project will not have a significant impact on the environment. Any adverse environmental impacts described in the Final EIR that are not mitigated to a level of insignificance would be overridden by the fiscal, economic, and social considerations set forth in the Statement of Overriding Considerations adopted by the City Council as a part of the Final EIR. The Mitigation Measures contained therein have been incorporated into the final project plans or are incorporated as conditions of project approval.
5. That the contents of the Draft and Final Environmental Impact Report were considered in making a decision on this development.

Rezone 02-90 Conditions:

1. That development of the site shall be in conformance with the Ocean Colony Planned Unit Development Ordinance, as amended.
2. That all uses and activities on the site shall be in conformance with the final Conditions of Approval of Site and Design Permit 19-89, Use Permit 14-90 and Subdivision 03-90.
3. That the license agreement between Half Moon Bay Resort Partners (the applicant) and North Wavecrest Partners, L.P., providing for the use of specific property in the North Wavecrest area as an off-site parking location dated November 26, 1990, and executed November 29, 1990, shall be recorded as a deed restriction against the off-site location. At such time as the agreement is terminated, the hotel operator shall so inform the City and the need for additional parking shall be addressed by the Planning Commission at that time at a duly noticed public hearing.
4. That the hotel manager shall designate a specific employee to monitor the hotels parking needs. the designated hotel employee shall inform the Planning Director of all major events that may impact the parking supply as they are scheduled, including conferences and tournaments occurring at the same time. Specific provisions for the use of the off-site parking lot and shuttle service, and the on-site parking attendants shall be addressed on a case by case basis.

This condition shall be reviewed in conjunction with Planning Commission consideration at the time the aforementioned license agreement expires.

Subdivision 03-90 Findings:

1. That the application for this Parcel Map was submitted and processed in accordance with the requirements of the Subdivision Ordinance of the City of Half Moon Bay.
2. That the proposed subdivision is consistent with the City of Half Moon Bay Local Coastal Program Land Use Plan, all Elements of the General Plan, and all applicable codes and policies of the City.
3. That the site is physically suited for the type and density of the proposed development.
4. That the design of the proposed subdivision and the improvements will not be detrimental to the health, safety, or welfare of the citizens of the City of Half Moon Bay.
5. That the Vesting Tentative Map is in conformance with all of the standards set forth in the Ocean Colony Planned Unit Development.
6. That an Environmental Impact Report (EIR) has been prepared for this development in accordance with the California Environmental Quality Act. Based upon the information contained therein, it has been determined that this project will not have a significant impact on the environment. Any adverse environmental impacts described in the Final EIR that are not mitigated to a level of insignificance would be overridden by the fiscal, economic, and social considerations set forth in the Statement of Overriding Considerations adopted by the City Council as a part of the Final EIR. The Mitigation Measures contained therein have been incorporated into the final project plans or are incorporated as conditions of project approval.
7. That the contents of the Draft and Final Environmental Impact Report were considered in making a decision on this development.
8. That the City Council will review the Final Subdivision Map prior to recordation to ensure compliance with all Conditions of Approval.
9. That development of the proposed hotel will provide significant recreational and visitor-serving opportunities, and coastal access within an established

neighborhood with an existing urban infrastructure capable of accommodating such development.

Subdivision 03-90 Conditions:

Conformance with the Ocean Colony Planned Unit Development Plan, Use Permit 14-90, and These Conditions:

1. That all activities and development on the site shall be designed, constructed, and utilized in accordance with the provisions and standards of the Ocean Colony Planned Unit Development Ordinance, Ordinance 3-72, as amended, the final Conditions of Approval of Use Permit 14-90, and the Conditions set forth herein. In the event that the California Coastal Commission imposes conditions of approval that result in modifications to the Tentative Parcel Map, the Planning Director shall determine if these changes warrant reconsideration by the Planning Commission and City Council. In the event it is determined that the Coastal Commission approval requires the City to amend any of the conditions imposed as a part of approving Subdivision 03-90, such changes will be considered at duly noticed public hearings by the Planning Commission and the City Council.

Utilities:

2. That prior to recording the Final Map, 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 CCWD 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 Planning Commission may approve a construction phasing program based upon the availability of future water supplies.
3. That the applicant shall submit three prints of the approved Tentative Map to each of the following utility companies: Pacific Gas & Electric Company, Pacific Telephone, Weststar Cable TV Company, and the Coastsides County Water District. The applicant shall subsequently provide the City Engineer with each utility's easement needs as part of the initial Final Map submittal.

Exhibit 2

C6C-03-CD-14-A &  
3-28-71  
CCC-19-AP-01

EXP 360087

4. That a sanitary sewer report shall be submitted, as part of the initial Final Map submission, for approval by the City Engineer. The report is to include all information pertinent to the capability of the proposed sewer facilities to handle the expected wastewater from the site. The system shall be connected to existing public lines. Submit engineering calculations confirming that existing sewer capacity downstream of the proposed development is adequate for the additional flow. If determined to be necessary by the City Engineer, the applicant shall participate in the costs of preparing a study of the sewer line bottleneck at Balboa and First Avenues to determine whether proposed flows from the hotel would significantly impact sewer line capacity. If capacity is inadequate, submit engineering calculations and plans for improvements to provide adequate capacity. The applicant shall bear the full cost of any additional sewer or required modifications to any existing sewage collection or transmission facilities necessary to serve the proposed development. Prior to the issuance of building permits, the applicant shall pay all sewer connection fees required by the City. Sanitary sewers must have a manhole at each change in direction of pipe. Curved sewers are not allowed. Manholes should be within paved streets whenever possible. Changes in flow direction greater than 90 degrees should be avoided.
5. That the exact location, number, size and other pertinent information for all utilities including fire hydrants, street lights, sanitary sewers and storm drains will be checked and approved at the time the final improvement plans are submitted to the City Engineer for review.
6. That all utilities shall be installed underground.
7. That the applicant shall pay for all maintenance and operation of all utilities and improvements from the time of installation until acceptance of any or all of the subdivision improvements by the City Council.
8. That any existing well on the property must be abandoned or brought up to standard in accordance with San Mateo County Department of Environmental Health requirements and Chapter 13.84, Half Moon Bay Municipal Code. City of Half Moon Bay domestic well permit and Health Department witnessing of work are required.
9. If public sanitary sewer is available, new construction must be connected to the sewer. Any existing septic tank on the site must be located. Any septic tank which will not be used must be properly abandoned in



conformance with Section 13.24.050 of the Half Moon Bay Municipal Code.

10. That there shall be adequate street lighting throughout the project to IES Standards for urban residential streets to the satisfaction of the City Engineer. Street lights shall have low pressure halogen bulbs. The street lighting shall be owned and maintained by Pacific Gas and Electric Company, unless otherwise approved by the City Engineer.

Fire Protection:

11. That adequate street access and water system for fire protection shall be installed and in working order prior to the beginning of any vertical construction to the satisfaction of the Fire Protection District and the City Engineer.
12. That fire flow and all other applicable Fire Code Regulations shall be to the satisfaction of the Fire Protection District.
13. That the applicant shall agree to participate in the formation of a special fire service zone to assist in funding the additional manpower required to service the project. As additional fire service zones are developed, the assessment may be adjusted as necessary to reflect the proportionate contribution of each area for fire protection services. Prior to the issuance of any building permits, the applicant shall execute an agreement with the Half Moon Bay Fire Protection District which shall provide for fully funding the first year's assessment at a date set forth in the agreement.
14. That the applicant comply with all requirements of the Half Moon Bay Fire Protection District prior to the issuance of any building permits. These requirements shall include, but not be limited to, the size, location, and other pertinent information pertaining to each building number or address, construction of an all-weather access road to the construction site from an improved roadway, meeting all required development standards pertaining to hydrant placement and location, street width standards, and the installation of internal fire protection devices such as building sprinklers. The applicant shall pay all plan check and inspection fees required by the Fire Protection District.
15. That adequate fire hydrants shall be installed within the subdivision or project to the satisfaction of the Half Moon Bay Fire Protection District. A preliminary

map shall be provided to the Fire Protection District for review and approval, which shows all fire hydrant and water main locations prior to the recording of the Final Map. A copy of the response from the Fire District shall be transmitted to the City Engineer.

Final Map Submittal:

16. That the initial submission of 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. 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 irrevocably offer all necessary rights-of-way and easements for dedication. The submittal shall include the latest title report guarantee of the property.
17. That 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.
18. That 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.
19. That any permits required by the Coastal Commission, CalTrans, the California Fish & Game Department, the US Army Corps of Engineers, or other agency with permitting jurisdiction over the subject property shall be obtained by the applicant or the applicant's representative prior to approval of a Final Map.
20. That the applicant pay all outstanding fees and charges due, including any costs associated with the preparation of the Environmental Impact Report and make any necessary escrow deposits prior to the recording of a Final Map.
21. That the applicant shall cause to be prepared and shall enter into a Subdivision Agreement satisfactory to the City Council covering all of the conditional items specified herein or as required by law. In the event

EXHIBIT 2  
CCC-03-CD-14-A &

3cc219-AP-01

EX-103360067

that a mutual water system is proposed, the applicant shall submit proof of formation of a mutual water company prior to approval of the Final Map.

22. That the public improvements shall be in accordance with the City of Half Moon Bay Design Standards, Design Details, and Standard Specifications, and any conditions of approval set forth herein.
23. That the applicant shall be subject to the requirements of the City's Park Dedication Ordinance and shall pay any required In lieu Fees in accordance with Chapter 17.16 of the Half Moon Bay Municipal Code. The applicant shall also be subject to the standard park facility development fee, which shall be collected prior to approval of the Final Map, in accordance with Ordinance 3-89 of the Half Moon Bay Municipal Code.
24. That the applicant shall be subject to standard storm drainage improvement fees, which shall be collected prior to approval of the Final Map, in accordance with Chapter 17.08 of the Half Moon Bay Municipal Code.
25. That the applicant shall prepare, or cause to be prepared, any assessment reapportionments necessary for the parcel. The reapportionments shall conform to the lots created by the subdivision such that each lot shall be a separate reapportionment. Prior to recording 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.
26. That an Encroachment Permit shall be required for all work within the public right-of-way. The encroachment permit shall be obtained from the City or from CalTrans or from both, as appropriate.
27. That the applicant provide City standard survey monumentation in the street. Three-fourths inch diameter iron pipe monuments (24 inch minimum length) shall be set at all lot corners, except where sidewalks are to be constructed or are existing. The surveyor shall set lead and tack in the sidewalk at these locations.
28. That the applicant shall pay School Impact fees, as required, prior to the issuance of any building permits.
29. That prior to the approval of the Final Map, the applicant shall present evidence to the satisfaction of the Planning Director that the required riparian corridor buffer zone has been provided.

required buffer zone shall be shown on the Final Map prior to it being recorded. There shall be no activity or development of any kind within the established buffer zone that is not clearly permitted by and in conformance with the City's LCP Policies.

Easement Dedications:

30. That a public utilities and parking easement having a minimum width of 10 feet shall be provided on the extension of Fairway Drive that serves the hotel development site. The public utilities and parking easements shall be outside the street right-of-way but shall be adjacent to and contiguous with the street right-of-way.
31. That the applicant shall irrevocably offer for dedication to the public for their use, all streets, easements for public utilities, for sanitary sewers, for storm drainage, for water lines, and for public access as may be required. All such public and utility easements, including those portions of Miramontes Point Road and the extension of Fairway Drive shown on the project site plans and as required by the City's L.C.P. and by the City Engineer, shall be clearly indicated on the Final Map.

Public Access:

32. That a 10 foot wide public access easement, for use by pedestrians, bicyclists, the handicapped, and the general public shall be provided in essentially the same configuration and location as shown on the Coastal Trail Plan, Sheet L-2, dated January 15, 1990. The dedicated Coastal Access Trail shall be shown on the Final Map prior to its consideration by the City Council. Golf carts will be restricted from using this easement.
33. That all vertical and lateral public accessways shall have clearly posted signs specifying the public's right to use these areas. These signs shall also contain any limitations on the public's right of access and specific uses.
34. That the project applicant shall provide adequately signed public parking and a public walkway to the Coastal Trail and the public viewpoint at Miramontes Point. Appropriate safety measures, such as a barricade or fence shall be included in the design of the public viewpoint at Miramontes Point to protect the public and to ensure that the cliff edge is not subject to further degradation, subject to the approval of the

City Engineer. Said facilities shall be handicap accessible.

35. That the required coastal access trail along the bluff edge shall be set back at least 10 feet from the bluff edge and native vegetation recommended by a licensed Landscape Architect shall be established between the trail and the edge to stabilize the bluff top. In the event of bluff retreat, the coastal access trail shall be relocated as necessary to meet the minimum 10 foot setback standard at all times. It is the intention of this Condition that the required public access trail easement be relocated as necessary due to bluff retreat or other extenuating circumstances, and that the trail not be abandoned.
36. That in order to minimize disturbance to marine plants and wildlife, the beach access path shall be located in the least sensitive areas. Signs should be posted at all beach access points informing the public of the sensitivity of the resources and the need to protect the rocky intertidal zone. Pets shall be prohibited in beach areas.
37. That the coastal access trail shall provide for the ultimate return of the continuous lateral shoreline trail to Highway 1 along Miramontes Point Road to discourage travel through lands to the south of the City limits of Half Moon Bay within the County of San Mateo.

Grading and Drainage:

38. That a storm drainage plan prepared by a registered civil engineer and incorporating all of the mitigation measures set forth in the EIR for this development 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. The plan shall also include provisions for sediment and grease traps as well as energy dissipaters necessary to reduce any potential damage to the site and the adjacent coastal bluff and riparian area to a level of insignificance. Additionally, the plan shall include or incorporate the grading plan, drainage plan and the erosion/dust control plan that provides for the winterization of the site for the project to the satisfaction of the City Engineer. Unless otherwise approved by the City Engineer as a part of the overall drainage plan, all roof drainage shall be collected and conveyed directly to the gutter or street. If

drainage system is to be connected to existing public lines, submit engineering calculations confirming that existing storm drain capacity downstream of the proposed development is adequate for the additional flow. If capacity is inadequate, submit engineering calculations and plans for improvements to provide adequate capacity or on-site detention or both. Storm drains must have a manhole at each change in direction of pipe. Curved storm drains are not allowed. Manholes should be within paved streets whenever possible. Changes in flow direction greater than 90 degrees should be avoided.

39. That the drainage plan shall include any applicable provisions of the Ocean Colony Planned Unit Development Ordinance and these Conditions of Approval, including, but not limited to, those standards pertaining to design criteria and on-going monitoring and maintenance of the replacement riparian vegetation.
40. Unless otherwise approved by the City Engineer as a part of the drainage plan, storm drainage should be conveyed to the existing creek as close as possible to its mouth. Outfalls to the creek should have energy dissipation structures to minimize localized erosion.
41. That unless otherwise approved by the City Engineer as a part of the drainage plan, cut-off-style trench drains and/or underdrains should be constructed parallel to the sea cliff to intercept additional shallow groundwater flow toward the cliff face. The drains should be located inland from the zone of instability at the bluff edge. The intercepted water should be routed by pipe conduit to the beach below.
42. That a preliminary geotechnical report shall be required for this project. The geotechnical report shall be prepared, wet-stamped and signed by a geotechnical engineer licensed by the State of California. The geotechnical report shall be submitted prior to the issuance of any grading or building permit for any activity on the development site. The report shall include, at a minimum, test borings within the proposed building footprints; laboratory tests of strength, consolidation, and soil classifications; detailed design recommendations for support of the hotel structure; and a detailed geologic investigation of the bluff to determine the final setback line in the event further analysis determines the need for a greater initial bluff-top setback than the 80 feet minimum proposed.
43. That for any reason, including but not limited to any act of man or nature, at such time as the minimum

distance from the top edge of the coastal bluff to the closest point of any portion of any structure on the development site, either above or below grade, becomes 35 feet, the applicant or any successors or assigns in interest shall submit plans to the City of Half Moon Bay Planning Commission that provide for the maintenance of the required minimum building setback of 30 feet from the top of the bluff edge at its closest point. The applicant and all successors or assigns in interest to the project shall accept this condition with the knowledge that compliance with this condition may require substantial building modifications in the event of an unanticipated catastrophic event.

44. That the applicant and all successors or assigns in interest to the project shall conform to any policies of the City of Half Moon Bay related to the installation of shoreline protective devices in effect at the time they may be desired or required to protect the site or any improvements permitted by these applications.
45. That the applicant shall comply with all Uniform Building Code regulations for grading to reduce temporary erosion impacts associated with development.
46. That a Grading Permit obtained through the City Engineer's office shall be required for all grading outside the street right-of-way. A Grading Permit shall not be issued without an approved grading plan, drainage plan, and an approved erosion/dust control plan that provides for winterization of the project site. The grading plan, drainage plan, and the erosion/dust control plan shall be approved by the California Coastal Commission prior to issuance of a City Grading Permit unless this portion of this Condition is waived in writing by the Executive Director of the Central Coast Area Office of the California Coastal Commission. A Grading Permit shall not be issued prior to approval by the City Engineer of the subdivision infrastructure improvement plans. Comply with all applicable provisions of Chapter 14.24 of the Half Moon Bay Municipal Code, and with Standard Specifications for Public Works Construction.
47. That the hotel operator shall monitor the bluff setback from the nearest edge of any building and the closest edge of the top of the bluff. On or before December 31, of each year after Certificates of Occupancy are issued for the hotel development, a written report identifying the current bluff setback shall be submitted to the City Planning Director.

48. That on an annual basis for the first five years after the issuance of Certificates of Occupancy for the hotel development, a written report prepared by a licensed civil engineer shall be submitted to the City Planning Director establishing the effectiveness of the drainage system and any impact to the bluffs.

**Archaeological Resources:**

49. That the applicant shall retain the services of a qualified archaeological consultant to monitor all grading and site preparation activities on the site. Prior to commencement of any grading activities, the archaeologist shall submit a written report to the Planning Director outlining the results of a hand-augering program to determine the existence of any sub-grade resources in the undisturbed areas of the site. During grading activities, the archaeologist shall be on-site at all times. In the event historic or archaeological artifacts are uncovered during grading activities, all work shall stop and the archaeologist shall perform an archaeological reconnaissance and develop mitigation measures to protect archaeological resources. Prior to the commencement of grading activities, the Planning Director shall review any recommended mitigation measures submitted by the archaeologist.

**Traffic, Circulation, and Parking:**

50. That the applicant will be subject to standard Traffic Mitigation Fees in accordance with Chapter 14.35 of the Half Moon Bay Municipal Code. These fees, which shall be collected prior to approval of the Final Map, can be used in the future for any signals or intersection improvements that need to be installed in the vicinity if cumulative impacts warrant these signals or improvements to the satisfaction of the Director of Public Works.
51. That the applicant shall agree to design and cause to be constructed a public lookout area at Miramontes Point in accordance with the provisions of the LCP and these conditions. The public parking for this lookout may be integrated into the proposed parking lots as set forth in these conditions.
52. That if the applicant has not secured an interest in all of the parcels within the proposed Miramontes Point Road extension right of way prior to the issuance of a building permit, and if the applicants request the City of Half Moon bay to exercise its powers of Eminent Domain to provide the necessary right of way, the applicant shall agree to reimburse the City for all



direct and indirect costs and overhead associated with the City's actions. A preliminary deposit of \$4,000 per effected parcel shall be submitted to the City, with the understanding that the applicant will submit any additional required fees or costs for this process upon demand of the City Engineer. In the event that the applicant is entitled to a refund of all or a portion of the deposit, any unused portion will be returned to the applicant without interest.

53. That the applicant shall construct curb, gutter, sidewalk, and pavement construction along the street frontages indicated below in accordance with City Standards or as approved by the City Engineer:

<u>Street</u>	<u>Curb Type</u>	<u>Minimum Sidewalk Width Excluding Curb</u>
Miramontes Pt Rd.	Vertical	4.0 (both sides)
Fairway Drive	Rolled	4.0 (one side)

Construct the proposed streets to applicable City Standards as follows:

<u>Street Name</u>	<u>Class</u>	<u>Right of Way (Excluding Public Utilities Easements)</u>	<u>Curb to Curb</u>
Miramontes Pt.Rd.	Collector	50.0	40.0
Fairway Drive	Minor	32.0	26.0

Improvements to Miramontes Point Road shall be constructed by the applicant both within the subdivision and outside the subdivision to the intersection of said road with State Route 1.

Streets within the subdivision with a width less than 36 feet (curb face to curb face) shall be private and shall not be accepted by the City for maintenance by the City. Internal private streets less than 36 feet wide (curb face to curb face) shall be posted for "Fire Lane - No Parking" in both directions and shall be so delineated by signs and curb markings on each side.

The minimum radius of any cul-de-sac shall be 30 feet to the curb face. The turnaround area of any cul-de-sac, excluding parking bays, shall be posted for "No Parking - Fire Lane" and shall be so delineated by signs and curb markings.

The streets and intersections, including private streets, shall be designed in such a manner as to permit access by a truck tractor and 40 foot trailer.

The applicant shall provide assurances that any and all holders of access easements to, across, and through the site shall be provided free and unrestricted access at all times.

54. That Miramontes Point Road shall be designated as a secondary beach access road, and signs indicating this status shall be conspicuously posted to that effect to the satisfaction of the Planning Director.
55. That the final designs for Miramontes Point Road shall provide left-turn lanes along Miramontes Point Road at the entrances to the existing RV and Mobile Home parks.
56. That if deemed appropriate and necessary by the Half Moon Bay Fire Protection District, parking shall be prohibited along Miramontes Point Road and the roadway shall be conspicuously posted indicating that the road is a designated fire lane.
57. That the applicant construct intersection improvements at the State Route 1/Miramontes Point Road intersection to Caltrans standards. Improvements shall include turn lanes and traffic signals when fully warranted. A portion of the Traffic Mitigation Fees paid by the applicant may be credited toward the intersection improvements, upon the recommendation of the City Engineer. This credit is not to exceed \$140,000.
58. That the applicant shall contribute a pro-rata share of the cost for signalization of the State Route 1/Fairway Drive intersection when warranted.
59. That the applicant, hotel operator, and all successors in interest to this development shall comply at all times with the parking management plan in the Ocean Colony Planned Unit Development Ordinance to accommodate potential parking demands greater than available on-site supply.
60. That the license agreement between Half Moon Bay Resort Partners (the applicant) and North Wavecrest Partners, L.P., providing for the use of specific property in the

North Wavecrest area as an off-site parking location dated November 26, 1990, and executed November 29, 1990, shall be recorded as a deed restriction against the off-site location. At such time as the agreement is terminated, the hotel operator shall so inform the City and the need for additional parking shall be addressed by the Planning Commission at that time at a noticed public hearing.

61. That the hotel manager shall designate a specific employee to monitor the hotels parking needs. the designated hotel employee shall inform the Planning Director of all major events that may impact the parking supply as they are scheduled, including conferences and tournaments occurring at the same time. Specific provisions for the use of the off-site parking lot and shuttle service, and the on-site parking attendants shall be addressed on a case by case basis. This condition shall be reviewed in conjunction with Planning Commission consideration at the time the aforementioned license agreement expires.
62. That all roadways for access to the site shall be constructed in accordance with the approved infrastructure improvement plans. Said roadways shall have an all-weather surface or paving prior to beginning construction of any structures that require a building permit. Said roadways shall be maintained in good condition by the applicant during all construction activities on the site to the satisfaction of the City Engineer. Said roadways shall be constructed to City Standards prior to the issuance of a Certificate of Occupancy for any building requiring a building permit.
63. That the applicant may submit a request for a Reimbursement Agreement for the costs of the construction of Miramontes Point Road within the public right of way existing just prior to the time approval of the Final Subdivision Map is requested for consideration by the City Council at a duly noticed public hearing. The applicant shall submit the proposed division of any proposed assessment for the Reimbursement Agreement for initial review by the City Engineer. If the Reimbursement Agreement were to be approved by the City Council, reimbursements would be collected only when a building permit is issued for any parcel subject to this agreement. Subsequent to the acceptance of this condition and prior to the City Council taking any action on the Reimbursement Agreement, should the City Attorney determine that it is inappropriate for the City Council to be involved in the issue of a Reimbursement Agreement based upon previous agreements, this Condition shall become null and void.

Noise:

64. That prior to the issuance of any building permits, the applicant shall provide evidence prepared by a licensed engineer experienced in acoustics that ensures that the sound levels attributable to traffic from the hotel development at the edges of the Miramontes Point Road right-of-way do not exceed 60 dBA. The method of sound attenuation suggested by the applicants acoustical consultant shall be reviewed by the Planning Director prior to an informal presentation to the Planning Commission as an Information Item. The applicant shall install a temporary or permanent sound wall equivalent to that required ultimately by this condition during the first phase of construction. Subsequent to the issuance of Certificates of Occupancy for the hotel development and after sufficient time to allow for the facility to be in active operation, a licensed engineer experienced in acoustics shall submit written evidence to the City Planning Director that this condition has been met.

Construction:

65. That because the City does not have the financial and technical resources available to perform the necessary plan check and on-site inspection for a development of this magnitude, the applicant shall agree to pay all direct costs, indirect costs, and overhead incurred by the City in contracting for the plan checking and review of all improvement plans, grading and drainage plans, and the on-site inspection of the construction and installation of the improvements.
66. That unless otherwise approved by the City Engineer, existing foundations lying outside the new building perimeter should be cut off so that any movement of those foundations induced by bluff failure would not impose unanticipated loads on the new foundations.
67. That all buildings and structures shall be designed and constructed in accordance with all Uniform Building Code Regulations (1988 Code), with all building plans to be reviewed and approved by the Building Department prior to the issuance of any Building Permits, to the satisfaction of the Director of Public Works. Computations and back-up data will be considered a part of the required plans. Structural calculations, engineering calculations, or both shall be prepared, wet-stamped and signed by an engineer or architect licensed by the State of California.

Exhibit 2

CCC-03-00-177A &  
CCC-09-AP-01  
Ex. B (cont.)  
Page 46 of 57

68. That the applicant shall construct all structures in compliance with the strictest standards listed in the U.B.C Regulations for building and structure earthquake safety as required by Title 24 of the California Administrative Code.
69. That all construction, grading, and site preparation activities shall be in conformance with the requirements of the AQMD rules and regulations governing these activities.
70. That during grading and construction, carry out major soil disturbance activities between 8 a.m. and 4 p.m. when winds are stronger to reduce the amount of dust settling out on nearby receptors and to obtain better areawide dispersion of any fugitive dust.
71. That 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 can carry large dust particles for long distances.

Landscaping Plan:

72. That a landscape architect shall be retained, at the applicant's expense, to determine the most appropriate species to enhance views, provide erosion control and further protect the slope reconstruction. A landscaping plan shall be submitted to and be reviewed and approved by the Architectural Review Committee prior to the issuance of building permits. A bond to guarantee installation and maintenance for two growing seasons shall be posted to the satisfaction of the Planning Director prior to the issuance of building permits.
73. That in the absence of a determination supported by a site-specific survey by a qualified geologist and biologist to the contrary, within 100 feet from the bluff or foredune edge, drought-tolerant coastal vegetation recommended by the applicants landscape architect capable of enhancing bluff and dune stability shall be installed and maintained as a part of any new development.
74. That all new landscaping introduced as a part of this proposed development shall be drought-resistant species where appropriate and feasible. Prior to the issuance of building permits, a Licensed Landscape Architect shall certify that all introduced species conform to this requirement.

75. That an irrigation plan shall be submitted as a part of the building plans that includes provisions for the use of a drip irrigation system and the use of reclaimed

Exhibit 2

CCC-08-14A &

CCC-19-AP-01

Page 47 of 57

3-97-71

water, wherever possible. Prior to the issuance of building permits, a Licensed Landscape Architect shall certify that this requirement has been met.

Replacement of the Riparian Habitat Area:

76. That any proposed modifications to the stream channel bisecting the site shall require jurisdictional reviews by the California Department of Fish and Game and the U.S. Army Corps of Engineers. Prior to any channel modifications, a Stream Bed Alteration Permit must be secured with the Department of Fish and Game and a permit (individual or nationwide) must be issued by the U.S. Army Corps of Engineers if determined to be necessary by either agency. Representatives of both agencies should be consulted during the initial stages of project design to ensure that the concerns and possible jurisdictional requirements can be incorporated into future development plans for the site. Preferably, proposed modifications to the stream channel on the site would be avoided thorough adjustment in the location of the hotel complex and parking structure. If relocation is not feasible, a detailed plan should be prepared by a qualified consultant incorporating adequate measures into the project to mitigate the loss of wetland habitat and disturbance to the riparian corridor on the site. Existing riparian vegetation along the stream channel should remain undisturbed whenever possible, and channel banks should be revegetated with native species following construction.
77. That as set forth in the Environmental Impact Report prepared for the Half Moon Bay Resort Hotel in the Ocean Colony Planned Unit Development, any disturbed riparian area of the development site shall be replaced at a ratio of one to one on the site. Any construction requiring replacement of any riparian vegetation, or any replacement and/or relocation of riparian vegetation to provide the required 30 foot buffer zone may be subject to a habitat restoration plan to be approved by the California Department of Fish and Game and the U.S. Army Corps of Engineers, or as otherwise provided for herein prior to the approval of the Final Map.
78. That the wetland mitigation plan, if required, shall be coordinated with, and approved by, the California Department of Fish and Game.
79. That the plan shall provide a schematic of the proposed wetland feature, specifying size, location, associated plantings, and necessary maintenance program to ensure vegetation establishment. A bond to

Exhibit 2  
CCC-03-CD-14-A &  
CCC-69-AP-01  
Page 48 of 57  
EX. B (cont)

installation and maintenance for two growing seasons shall be posted to the satisfaction of the Planning Director prior to the issuance of building permits.

30. That the Final Map shall show the location of the replacement riparian habitat.

**Mutual Water System, If Requested:**

81. That water treatment and distribution line facilities and appurtenances be constructed for domestic water service from existing temporary wells on the subject property. To protect the water source and public health and safety, all water wells shall be set back from possible sources of pollution and contamination. The amount of setback shall depend upon the geology, soil conditions and topography of the well site. Because of the many variables involved in the determination of the safe horizontal distance of a well from potential sources of contamination and pollution, no one set of distances will be adequate and reasonable for all conditions. In areas where adverse conditions exist, the distances listed may be increased. Conversely, where especially favorable conditions exist or where special means of protection, particularly in construction of the well are provided, lesser distances may be acceptable if approved by the County Health Officer, City Director of Public Works, or his designee. The following minimum setbacks, measured horizontally from the well, typically shall be:

From another existing well	75 ft
From any septic tank	50 ft
From a septic tank leach field	100 ft
From a sewer line or lateral	50 ft
From a property line (sewered area)	5 ft
From a property line (unsewered area)	50 ft
From an exterior wall of a building foundation	5 ft

From a boundary line of any easement dedicated to or reserved for sanitary sewers or wastewater facilities as shown on a map approved by a sanitary district and placed on file by that district with the City of Half Moon Bay

50 ft  
Exhibit 2

The applicant shall submit a site plan showing wells, sewers, sewer laterals, septic tanks, septic tank leach fields, buildings, and easements for

666-01-CD-14-A &  
000-49-AP-01  
Page 49 of 57

3-91-71

or sanitary sewers (both existing and proposed) within 100 feet of any well (existing or proposed) on the applicant's parcel.

Prior to approval of a Final Map, the applicant shall obtain a domestic well permit issued by the City of Half Moon Bay and shall comply with the requirements therein to convert the existing test well to a temporary domestic well and with the requirements of the San Mateo County Department of Health Services. The applicant shall execute an agreement to abandon and seal the temporary domestic well and connect to a permanent water supply system, at the applicant's expense, within 30 days after written notification from the City of the availability of said permanent system.

Any water filters, treatment facilities, or water tanks required as part of the on-site water system shall be anchored to prevent lateral movement in accordance with Chapter 23, Uniform Building Code.

All wells, filters, treatment facilities, and water tanks shall be screened from view from the street or adjacent property.

In the event that wells or a mutual water system are not proposed, this condition shall be null and void.

80. That if any proposed mutual water company well system has a treatment or filtering system with backwash residue, and if it is proposed that the residue is to be discharged to the sanitary sewer system, the backwash discharge will be governed by the pretreatment requirements of the Industrial Waste Program. The backwash discharge shall be subject to a sewer connection fee and sewer service charge equal to the equivalent number of single-family residences. The total number of single-family equivalents shall be determined by dividing the total estimated annual backwash gallonage by seventy-four thousand eight hundred fourteen (74,814), but in no case shall it be less than one single-family equivalent.

In the event that a mutual water system is not proposed, this condition shall be null and void.

Sewer Authority Mid-Coastside Wastewater Treatment Plant Expansion Assessment District:

81. That if applicable, the applicant shall execute an agreement to the satisfaction of the City Attorney to participate in a future assessment district for the expansion of the Sewer Authority Mid-Coastside & wastewater treatment plant and to being assessed

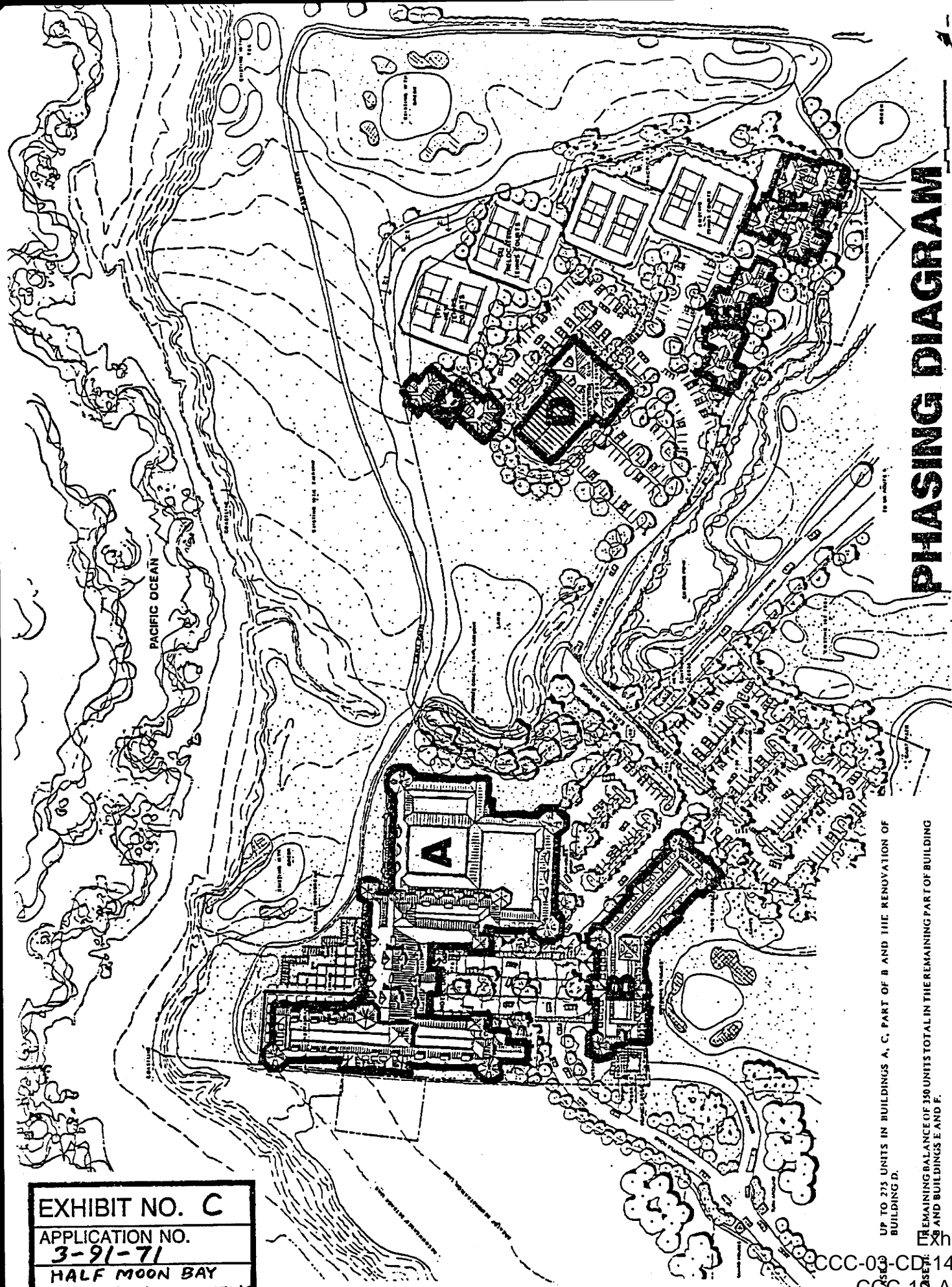


applicant's share for the construction of said treatment plant expansion. An actual assessment shall be determined at a later date when an assessment district is created. The agreement shall be recorded with the San Mateo County Recorder as a lien against the subject property, and shall be binding on any successors in interest to said property. The lien shall be discharged when:

- A. The subject property becomes a part of a future assessment district to construct the full wastewater treatment plant expansion, and
- B. The subject applicant pays in full, with credit for any sums paid in advance under the agreement, any assessment levied, and
- C. The City Clerk prepares and delivers to the applicant a notice of satisfaction of lien.

Any and all funds collected by the City under the Agreement shall be held by the City Treasurer in a separate account in a trust fund and applied, upon order of the City Council, solely to the wastewater treatment plant expansion (including any reasonable administrative charge and incidental expense) specified in the agreement, or to the reduction of any assessment levied or to be levied upon the property in question by an assessment district formed to complete such improvements. Any surplus in any account shall be refunded, without interest and without delay, to the then owner or owners of the property when such surplus is determined by the City Council. In the event it is determined by the City Engineer that the applicant is not required to participate in the Sewer Authority Mid-Coastside treatment plant expansion Assessment District, this condition shall be null and void.

file: HTLEFC3: Final Action: 2-5-91



# PHASING DIAGRAM

NOTE: INFORMATION IS PRELIMINARY AND SUBJECT TO CHANGE IN DESIGN DEVELOPMENT

HALF MOON BAY RESORT HOTEL

EXHIBIT NO. C

APPLICATION NO.

3-91-71

HALF MOON BAY

RESORT—HOTEL PHASING

California Coastal Commission

UP TO 275 UNITS IN BUILDINGS A, C, PART OF B AND THE RENOVATION OF BUILDING D.

THE REMAINING BALANCE OF 350 UNITS TOTAL IN THE REMAINING PART OF BUILDING B AND BUILDINGS E AND F.

Exhibit 2

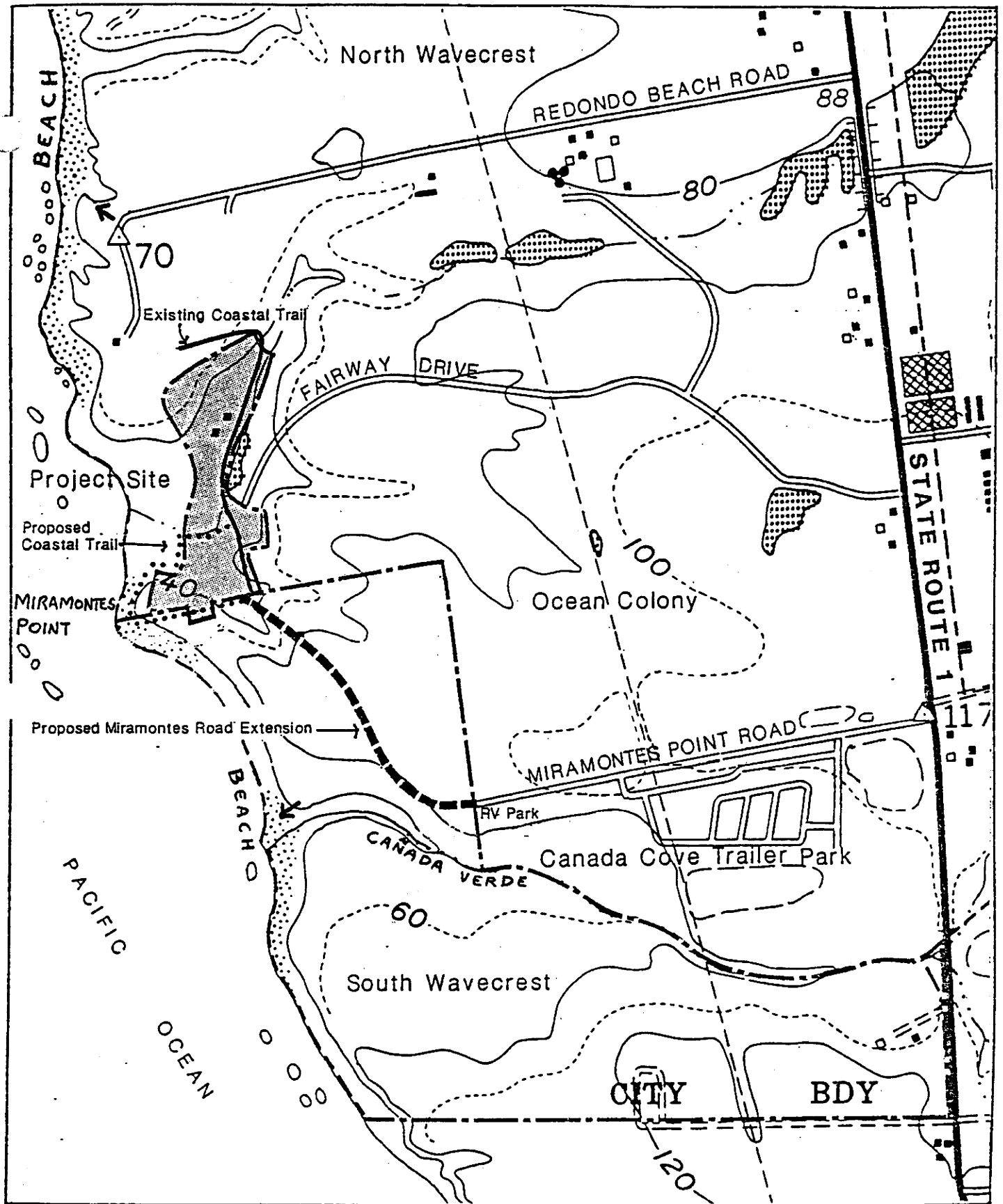
CCC-03-CD-14-A &

CGC-11-AP-01

Page 52 of 57

CHITTEL  
LUTKICK  
ASSOCIATES  
ARCHITECTS

SITE PLAN  
'A'



# Half Moon Bay Resort Hotel EIR

Wallace Roberts & Todd

121 Second Street • 7th Floor • San Francisco, CA 94105-3605

Scale: 1" = 770'

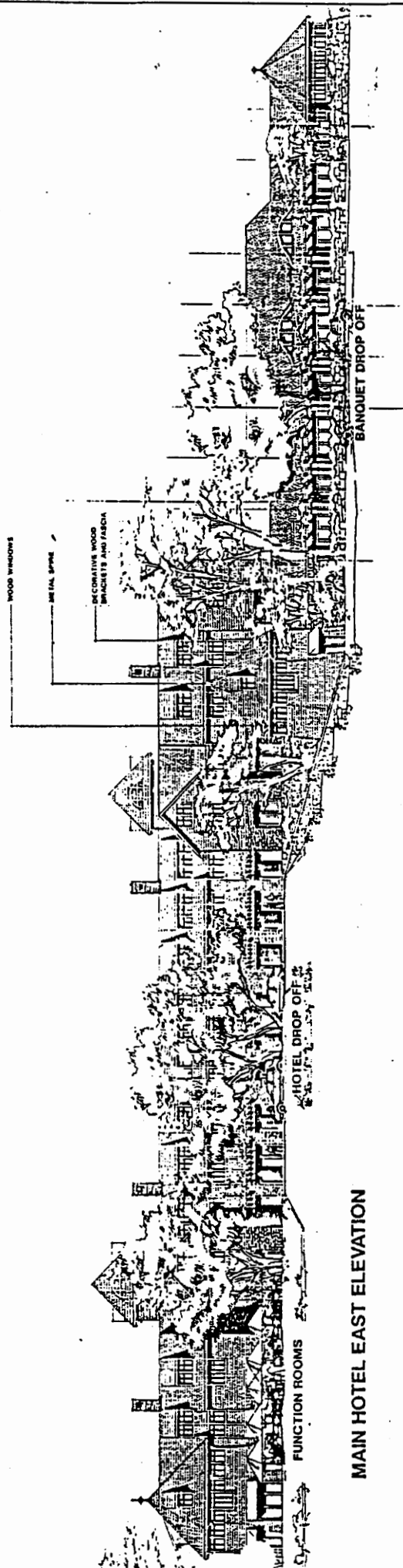


MIRAMONTES POINT ROAD

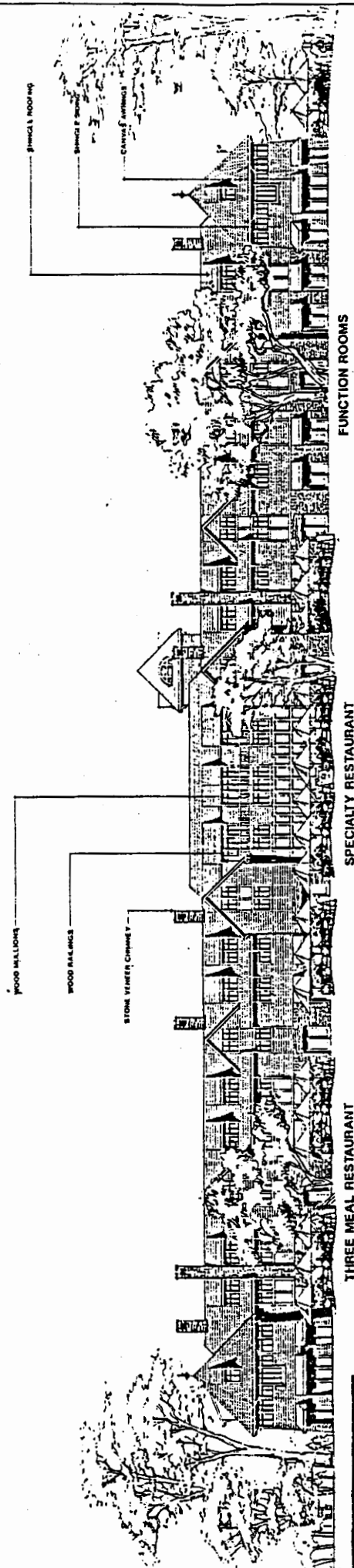
EXHIBIT NO. **D**  
 Exhibit 2  
 APPLICATION NO. 4-A &  
**3-86-71** AP-01  
 HALF MOON BAY  
 RESORT HOTEL  
 ROAD EXTENSION

Page 53 of 57





MAIN HOTEL EAST ELEVATION



SOUTH ELEVATION

FRIZZELL  
H. L. L. L.  
ASSOCIATES  
ARCHITECTS

BUILDING  
ELEVATIONS

12

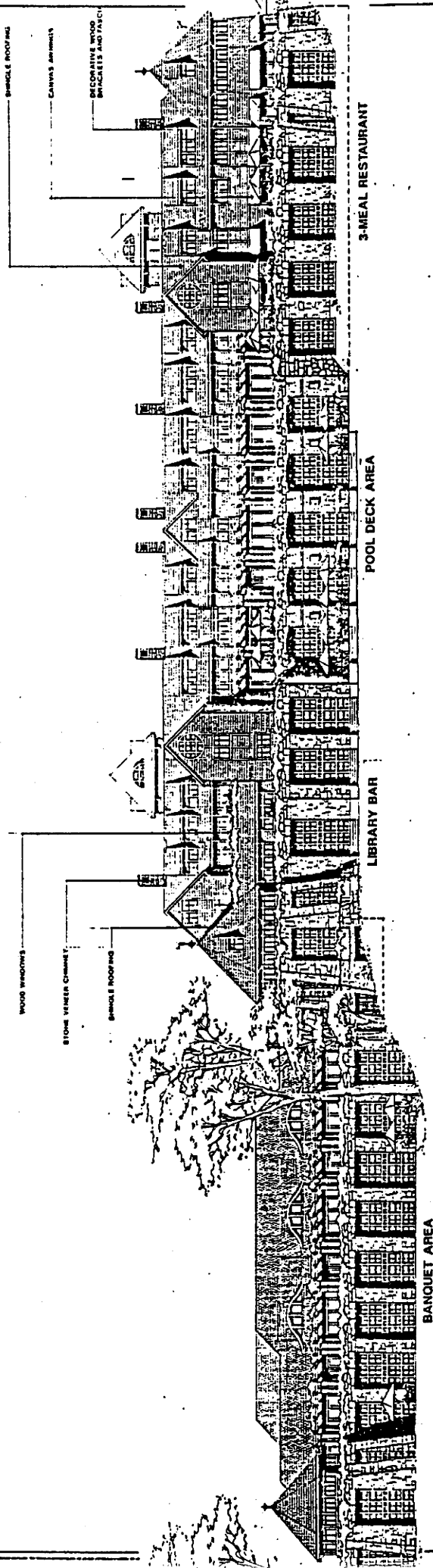
EXHIBIT NO. F

APPLICATION NO. 2

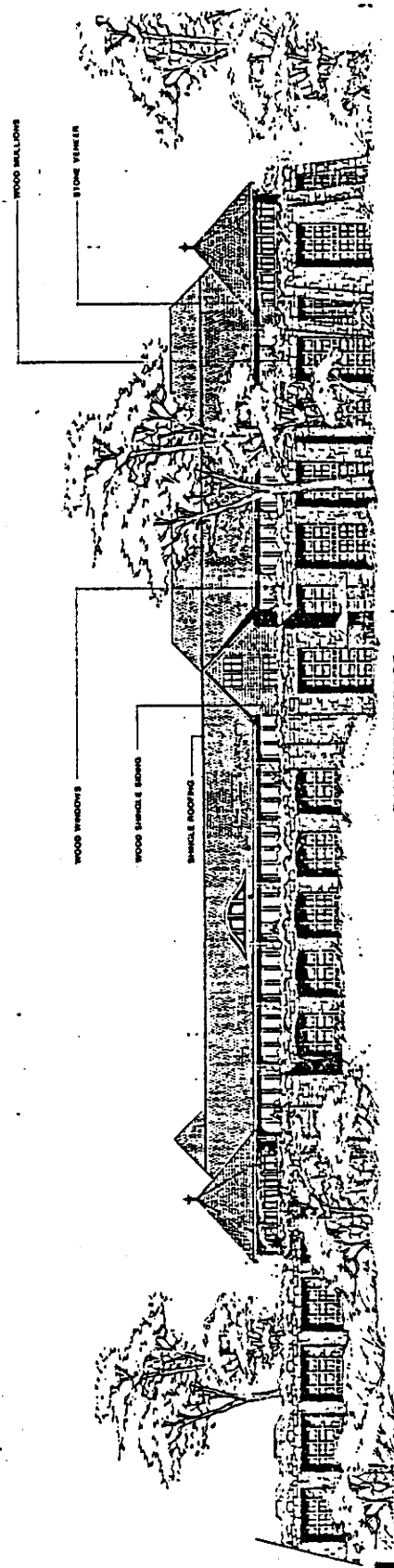
CCC 303-21-14A &  
HALF MOON BAY  
RESORT - HOTEL ELEVATION

Page 55 of 57

California Coastal Commission



MAIN HOTEL WEST ELEVATION



NORTH ELEVATION

EXHIBIT NO. **F** (con.)  
 APPLICATION NO. **3-91-71** Exhibit 2  
**HALF MOON BAY & RESORT PROJECTS**  
 Page 56 of 57  
 California Coastal Commission

FRIZZELL  
 H. J. L. L.  
 ASSOCIATES  
 ARCHITECTS  
 1000 S. GATEWAY  
 SAN ANTONIO, TEXAS 78204

# HALF MOON BAY RESORT HOTEL

BUILDING  
 ELEVATIONS



Half Moon Bay Resort Hotel EIR  
 VISUAL SIMULATION VIEW A  
 Looking north at project site from beach  
 Figure 26

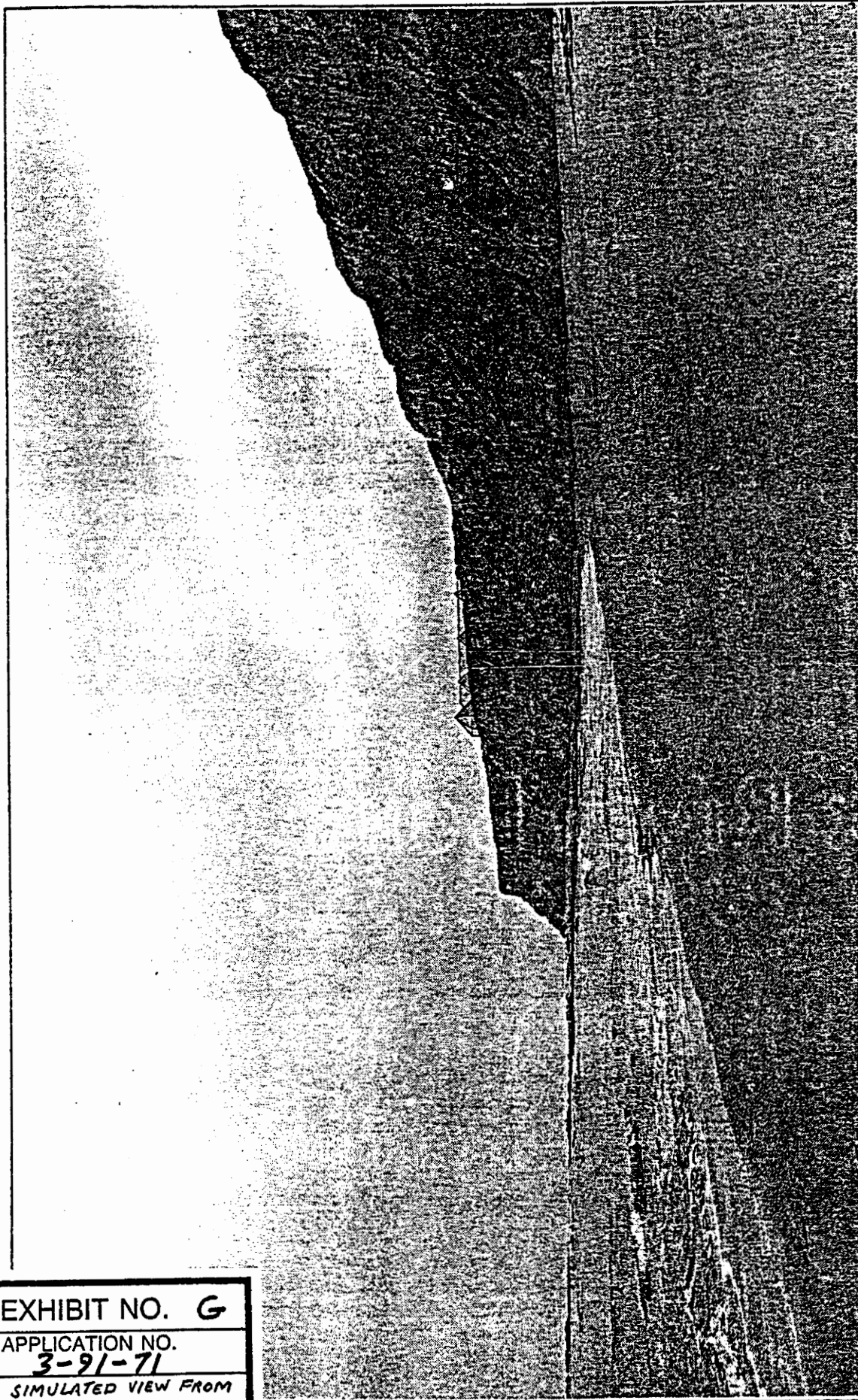


EXHIBIT NO. **G**

APPLICATION NO.

**3-91-71**

SIMULATED VIEW FROM  
 CANADA VERDE BEACH

California Coastal Commission

*Wallace Roberts & Todd*  
 2700  
 Second Street, 7th Floor San Francisco, CA 94105 (415) 541-0830

Exhibit 2  
 CCC-03-CD-14-A &  
 CCC-19-AP-01  
 Page 57 of 57  
 Ex. **G**

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

**RECORD PACKET COPY****W<sub>11</sub>**

**Staff:** NC-SF  
**Staff Report:** March 26, 2004  
**Hearing Date:** April 14, 2004

**STAFF RECOMMENDATIONS AND FINDINGS  
FOR CEASE AND DESIST ORDER**

**CEASE AND DESIST ORDER:** CCC-03-CD-014

**RELATED VIOLATION FILE:** V-2-01-011

**PROPERTY LOCATION:** One Miramontes Point Road, Half Moon Bay, San Mateo County (APNs 066-092-780 and 066-092-770)

**DESCRIPTION OF PROPERTY** The hotel premises portion, One Miramontes Drive, seaward of Ocean Colony at Miramontes Point, Half Moon Bay

**PROPERTY OWNER and PERSON SUBJECT TO THIS ORDER:** The Ritz Carlton Hotel Company, LLC

**VIOLATION DESCRIPTION:** Non-compliance with the terms of CDP No. 3-91-71/1-95-47: failing to provide 25 public parking spaces, within the Ritz Carlton parking garage as required.

**SUBSTANTIVE FILE DOCUMENTS:**

1. Coastal Development Permit 3-91-71/1-95-47
2. Coastal Development Permit 1-94-04 Background Exhibits

**CEQA STATUS:** Exempt (CEQA Guidelines (CG) §§ 15061 (b) (3)) and Categorically Exempt (CG §§ 15061(b)(2),(3), 15307, 15308 and 15321)



## I. SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve Cease and Desist Order No. CCC-03-014 ("Order") to address the Ritz Carlton Hotel Company LLC's ("Ritz Carlton") non-compliance with past coastal development permit ("CDP") actions by requiring the Ritz Carlton to take affirmative steps to provide 25 public parking spaces within the Ritz Carlton garage that are easily accessible by the public as required by the Commission when it conditionally approved CDP 3-91-71/1-95-47<sup>1</sup>. This enforcement action arises after more than three years of complaints regarding noncompliance with the CDP requirements regarding public access parking, and numerous attempts by Commission staff to resolve the situation informally.

As approved by the Commission, the CDP permitted the construction of a 271-room luxury resort hotel facility and the construction of significant public access improvements at One Miramontes Point Road in the City of Half Moon Bay, San Mateo County. Recognizing the existing and future public access use at the subject property, the Commission required the Ritz Carlton and the co-applicant, the City of Half Moon Bay (for that portion involving the extension of Miramontes Point Road to the hotel property) to provide public access amenities which include: a bluff top scenic overlook, a paved pedestrian access path along the length of the property, bike lanes connecting from Highway One to and along the property, public restrooms and viewing decks, and a vertical access way to Canada Verde Beach. The Commission also required the Ritz Carlton to provide two different public parking areas, a 15-car lot located next to the pathway to Canada Verde Beach south of the hotel premises and 25 parking spaces either on hotel premises or at the end of Redondo Beach Boulevard (north of the hotel property). In November of 1998, the Executive Director approved the revised plans submitted by the Ritz Carlton as being consistent with CDP No. 3-91-71/1-95-47. In those plans, the Ritz Carlton proposed and the Executive Director approved the provision of the 25-public parking spaces within the hotel parking garage (as well as the 15-car Canada Verde lot).

Starting in June of 2001, the Commission began receiving reports from the public that the Ritz Carlton was denying the public use of the 25 parking spaces located on the hotel garage. In some instances the public was not informed by Ritz Carlton staff that there was onsite public parking, and they were instead directed to the 15-space Canada Verde parking lot south of the Ritz Carlton property (which is often filled to capacity during prime usage hours such as after work on week-days and on the week-ends and holidays). In at least some instances, Ritz Carlton staff informed members of the public that there was no public parking on the hotel site. Commission staff repeatedly attempted to resolve the situation. Staff telephoned, wrote letters and met with Ritz Carlton staff several times regarding the problem of permit compliance (See letters from

---

<sup>1</sup> The CDP has combined two Commission District numbers due to two different district offices handling this permit. The Central Coast office processed the original permit application and decision and the North Coast office processed the submittal of CDP condition compliance.

Commission staff to the Ritz Carlton concerning the problem dated June 26, 2001, February 14, 2002, April 17, 2002, and August 7, 2002 (Exhibits 4, 6, 8, and 10). The Ritz Carlton has continually promised the Commission that it would fully comply with the requirements of its CDP (Exhibits 5, 7, 9, and 11). However, the problems continued with new reports during 2003. Commission staff again attempted to resolve the situation without bringing a formal enforcement action. When the reports continued to be filed by the public despite the efforts of Commission staff and continual promises made by the Ritz Carlton, the Executive Director finally notified the Ritz Carlton by letter dated October 23, 2003, of his intent to commence a Cease and Desist Order hearing to ensure compliance with CDP 3-91-71/1-95-47 (Exhibit 12).

In order to issue a Cease and Desist Order under Section 30810 of the Coastal Act, the Commission must find that the activity that is the subject of the order has occurred either without a required CDP or in violation of a previously granted CDP. This Order is being brought to address the continuing violations of CDP 3-91-71/1-95-47 by the Ritz Carlton. The Coastal Act violations addressed by this Order are the Ritz Carlton's failures to allow the public to use the 25 public parking spaces within its garage on hotel premises as clearly required by the Permit. The Commission has received at least twelve complaints that demonstrate that the public was prohibited, misled or heavily discouraged from utilizing the 25-parking spaces within the Ritz Carlton garage. While the Commission has documented at least twelve incidents where members of the public or Commission staff has been discouraged or prohibited from accessing the 25-parking spaces, clearly this is only a sampling of what appears to be ongoing and persistent problems. It is very likely there have been additional instances experienced by the public, which have not been reported to the Commission.

The Ritz Carlton's failure to provide the public the required access to the 25 spaces within its garage consists of an ongoing activity that is inconsistent with the terms of CDP 3-91-71/1-95-47. The proposed Order will require the Ritz Carlton to affirmatively act to enable the public to park on its premises as required by the Permit condition by requiring: 1) additional parking signs along Miramontes Point Road and within the existing Canada Verde Beach parking lot that identify the amount of and the location of the 25 spaces within the Ritz Carlton garage; 2) a parking permit machine located at the Ritz Carlton greeter station to provide the public with garage parking permits for entry into the hotel garage parking facility; 3) a machine installed at the entry of the Ritz Carlton garage to receive the issued parking permit from the public when it enters the garage; 4) additional employee training; and 5) the production of and distribution of a public access/parking amenities brochure with copies to be made available to the public at the Ritz Carlton greeter station. The Order would allow the public to access the parking spaces independently without having to solicit assistance from Ritz Carlton staff to obtain entry and would also direct and order the Ritz Carlton to comply with the CDP requirements and avoid future violations of the CDP parking requirements.

## II. HEARING PROCEDURES

The procedures for a hearing on a proposed Cease and Desist Order are set forth in section 13185 of the Commission's regulations. For a Cease and Desist Order hearing, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any person, other than the violator or its representative. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR section 13185 and 13186 incorporating by reference section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the order.

## III. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following motion:

### Motion:

***I move that the Commission issue Cease and Desist Order No.  
CCC-03-CD-014 pursuant to the staff recommendation.***

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

**Resolution to Issue Cease and Desist Order:**

The Commission hereby issues Cease and Desist Order number CCC-03-CD-014, as set forth below, and adopts the findings set forth below on grounds that the Ritz Carlton has undertaken activity which is inconsistent with CDP 3-91-71/1-95-47 previously issued by the Commission.

**IV. FINDINGS FOR CEASE AND DESIST ORDER CCC-03-CD-014**

Staff recommends the Commission adopt the following findings of fact in support of its action.

**A. History of Commission Permit Actions on Subject Property**

In 1991, and later in 1995,<sup>2</sup> the Commission conditionally approved CDP No. 3-91-71/1-95-47 ("Permit") for the Half Moon Bay Resort Partners and the City of Half Moon Bay for a 350-unit resort hotel complex, land division and extension of Miramontes Point Road (Exhibit 1: location map and Exhibit 3: Signed Notice of Intent to Issue CDP and CDP).<sup>3</sup> The Half Moon Bay Resort Partners assigned the Permit to the Ritz Carlton Hotel Company LLC ("Ritz Carlton").

At the time of Commission permit action, the proposed 350-unit resort hotel represented a priority visitor serving use under the Coastal Act and the certified LCP Land Use Plan ("LUP"). The approved project included the extension of Miramontes Point Road to access the site across various intervening property held by differing ownerships within the City's South Wavecrest Redevelopment Area; the City of Half Moon Bay was the co-applicant for this portion of the project. Because only limited sewage treatment capacity is presently available, the Permit was phased to limit hotel room construction to no more than 275 units until such time as additional sewage treatment capacity is available. The existing Ritz Carlton Hotel Half Moon Bay has 271 rooms.

The Commission required the Ritz Carlton to provide a comprehensive public access program both on- and off-site so that a balanced range of high-end as well as more affordable public amenities was provided by the approved project, consistent with the

<sup>2</sup> The Central Coast District office processed the 1991 CDP application; in 1995 Commission jurisdiction for permits for Half Moon Bay had transferred from the Commission's Central Coast District to its North Coast District. The original CDP has a Central Coast number: 3-91-71. When the applicant was ready to submit condition compliance, permit jurisdiction for the project had transferred to North Coast District. The original CDP was renumbered in 1995 from 3-91-71 to 3-91-71/1-95-47 to reflect the change in jurisdiction and to clarify internal permit record keeping.

<sup>3</sup> The City of Half Moon Bay was the co-applicant due to the proposed extension of Miramontes Point Road and their ownership of the land for that road extension. The City was not subject to the permit conditions requirements for the hotel resort complex.

Coastal Act and the approved LUP. Prior to development, the Commission found the existence of public prescriptive use of the subject property and determined that consistent with the public access policies contained in Chapter 3 of the Act, the approved resort hotel project must preserve and provide for continuing public use of the shoreline property.

The Permit required the Ritz Carlton to provide onsite public access amenities such as: 1) creation of a bluff-top scenic overlook for hotel guests and the visiting public; 2) a pedestrian access path between the hotel's parking garage and the bluff-top overlook connecting to the public bikeway located north of the hotel property adjacent to Redondo Beach Road; 3) a coast side bikeway segment connecting the extended Miramontes Point Road, the bluff-top overlook and the southern end of Olive Avenue; 4) bicycle parking areas; 5) roadside bike lanes connecting the hotel site to Highway One; 6) a public parking lot along Miramontes Point Road south of hotel premises for at least 15 cars for Canada Verde beach parking; 7) vertical beach access for Canada Verde Beach; 8) public restrooms; 9) adequate signage clearly marking access routes, public parking, Miramontes Point overlook and public restrooms.

Since there was not adequate room to provide for a satisfactory range of free and/or low-cost recreational facilities on the hotel site, the Permit required the Ritz Carlton to be responsible for providing such facilities offsite, at adjacent and nearby locations. In addition to the extension of Miramontes Pt. Road, the program was to include the establishment of and arrangements for maintenance of public access facilities to and along the shoreline. The Permit required the applicants to either construct the offsite public access amenities or to provide in-lieu fees so that appropriate public or non-profit entities could provide the offsite amenities. The applicants satisfied the offsite public access requirements by paying an in-lieu fee of \$250,000 to the City of Half Moon Bay so that the City could complete the coastal trail system to Redondo Beach Road. The applicants also paid an in-lieu fee of \$350,000 for the creation of off-site low and moderate overnight accommodations.

This action involves the requirements of Special Condition No. 2a of CDP 3-91-71/1-95-47, which states:

Miramontes Pt. parking. A public parking area on hotel premises at Miramontes Pt., min. 25 spaces, as provided by the Ocean Colony Planned Unit Development ordinance (Ordinance No. 4-91). Such parking area shall be open during daylight hours commencing at sunrise and at least until one hour after sunset throughout the year. (With respect to this coastal development permit, permittee may satisfy this condition by demonstrating that a like quantity and quality of parking, along with a paved access road, has been provided as an addition to the required parking at the seaward end of Redondo Beach Road.)

In November of 1998, the Athens Group, the resort hotel project permittee at the time, submitted final revised access plans to Commission staff in compliance with the above-cited public access condition requirements of the Permit. The Executive Director approved these plans. At the time of plan approval, the permittee depicted the provision of 25 public parking spaces within the hotel's parking garage. There is a greeter station that one must pass through to enter the Ritz Carlton premises. As the Commission understands the situation, previously, the intended procedure was that the hotel staff at the greeter station would direct visitors who ask to use the hotel public parking in the garage to either drive to the hotel's main entrance, or to drive directly to the garage entrance, and ask a valet to let them into the garage. More recently, the Commission has been informed that intended procedure was that the hotel staff at the greeter station first writes down the visitor's license plate, then the staff gives the visitor a tag to hang on their rear-view mirror, radios a valet, and asks the valet to meet the visitor at the garage entrance to let them into the garage.

**B. History of Violation**

In May 2001, Commission enforcement staff began receiving reports that the public was having difficulty getting to the 25 parking stalls within the resort hotel complex. Because of multiple reports, Commission staff independently began to investigate the Ritz Carlton's public access amenities and access to the 25 parking stalls, and to evaluate compliance with the Permit conditions (whenever they had reason to be in the vicinity of the Ritz Carlton). In a visit to the site in May 2001, Commission staff confirmed that there was no one at the greeter station when they arrived, and there were no signs indicating where the parking is located within the Ritz Carlton garage. Two different Ritz Carlton employees stated that they didn't know about any public parking available on the resort hotel property.

Commission access program staff also reported that City of Half Moon Bay residents had told them that they have had similar problems and that the hotel employees had attempted to charge the Half Moon Bay residents \$10 to park within the garage when they arrived to use the coastal trails and the 25 parking spaces. Upon contact, on June 13, 2001, Jeffrey Mongan, for the Ritz Carlton, indicated that steps were being taken to rectify the situation.

On June 22, 2001, another report was received which stated that the person in the Ritz Carlton parking garage knew nothing about public parking, the spots that were formerly designated for public parking were blocked off and posted for "Valet Parking" and the visitor was told that he could park "where the caddies park" in the service area. Enforcement staff wrote the Ritz Carlton on June 26, 2001, concerning the report, and the Ritz Carlton sent a response on July 12, 2001, stating again that they had fixed the problem (Exhibits 4 and 5).



On February 12, 2002, a visitor reported that the hotel greeter station was unattended, and when she followed the signs to the hotel parking structure, there were guard gates in place at all entrances and three "Valet Parking Only" signs posted. The valet on duty at the garage seemed uncertain when she asked to park in the public parking spaces. After she insisted that there were parking spaces for the public within the garage, the valet let her into the garage to park. She was told to park in a space opening up in the service vehicle area. In response, on February 14, 2002, enforcement staff yet again contacted the Ritz Carlton, and on March 25, 2002, the Ritz Carlton again assured Commission staff that they would resolve the problem (Exhibits 6 and 7).

On March 26, 2002, a member of the public contacted enforcement staff and stated he had recently had trouble using the hotel parking spaces when inquiring about public access parking. He was directed by the Ritz Carlton greeter offsite to the 15-car parking lot south of the hotel premises, adjacent to the Canada Verde Beach access way.

On April 10, 2002, Commission enforcement program management and staff visited the Ritz Carlton (in a car with State of California license plates and a State of California decal on the car window), and had trouble accessing the 25 public parking spaces. The Commission staff had not ever been to the hotel or tried to utilize the public parking within the parking garage. The hotel greeter station was unmanned and an existing sign installed on the grass to the right of the greeter station, which stated "Coastal Access Parking" with an arrow, did not direct them to where the parking was located. The Commission staff drove around the premises, could not find the public parking and no hotel employees were available to assist them in their search. The parking garage had security gates in place at all three entrances, fully blocking access. Staff could see some spots dimly marked for Coastal Access Parking on the second floor of the garage, but could not enter the garage and there were no onsite valet staff to allow entry. The Commission staff then drove to the hotel entry round-about, and a staff valet directed them to the 15-space lot located on Miramontes Road. Staff responded that 25 public parking spaces were supposed to be available on hotel premises, and the valet stated that he had been working for the Ritz Carlton since the hotel had opened and he didn't know anything about any public parking on hotel premises. At this point staff identified themselves as Commission employees and handed the valet their business cards. Another valet appeared and told the staff to go to the garage and someone would "buzz" them into the garage.

Around the same time, Commission staff received another report from a member of the public. The report stated that there was no one at the greeter's station when he arrived, and that the existing sign with the arrow stating "Coastal Access Parking" confused him since the arrow did not point to any particular destination. After some time and difficulty, he located a valet near one of the hotel restaurants, Caddy's, who was willing to help him find a spot in the hotel garage after opening up one of the entrance gates. On April 17, 2002, enforcement staff contacted the Ritz Carlton (Exhibit 8). By letter dated

Exhibit 3

CCC-03-CD-14-A &amp;

CCC-19-AP-01

Page 8 of 86

May 1, 2002, the Ritz Carlton again indicated that they would fix the problem and concurred that part of the problem was the lack of staff at the hotel greeter station (Exhibit 9).

However, another Commission staff member visited the hotel on July 14, 2002, and when she stopped at the greeter's station and inquired about public access parking, she was told that there was public parking to the south on Miramontes Point Road (the 15-space Canada Verde parking lot). Only when she persisted and asked specifically about public parking on hotel premises in the hotel parking garage she was told by the greeter that yes, there was public parking in the hotel parking garage, but that the beach access way was located by the 15-space parking lot on Miramontes Point Road and that thus, she should park in that lot.

After receiving this complaint, Commission enforcement staff contacted the Ritz Carlton, giving them 30 days to comply with permit conditions or face formal enforcement action. Staff also set up a meeting with the Ritz Carlton to take place in early August 2002. Once again the Ritz Carlton contacted staff and indicated that they wanted to avoid formal action and that they would take steps to resolve the situation.

On August 6, 2002, Commission staff met with management from the Ritz Carlton in an attempt to finally resolve the situation. At this meeting Commission enforcement staff made it quite clear to the Ritz Carlton that unless the parking problems ceased, the Commission would be forced to issue a Cease and Desist Order to ensure that the Ritz Carlton abided by the permit actions approving the hotel facility. The Ritz Carlton representatives indicated that they had resolved all existing problems with public access, that they had implemented new training for hotel greeter staff, installed new signs, and assured Commission staff that the problems would no longer occur. On August 7, 2002, Commission staff confirmed the commitments made by the Ritz Carlton at the meeting (Exhibit 10). On August 29, 2002, the Ritz Carlton responded to the 7 August 2002 letter, confirming their commitment to agreements made in the meeting (Exhibit 11).

However, on April 1, 2003, Commission staff received an additional report of problems trying to access the public parking at the hotel premises. The reporting party indicated that when they asked hotel staff about public parking, they were told to utilize the 15-space Canada Verde Beach parking lot.

Yet another member of the public reported that on Sunday August 3, 2003, she and a friend approached the greeter station at the Ritz Carlton. The Ritz Carlton staff asked if they were checking into the hotel, and when the visitors indicated that they wanted to use the hotel coastal access trails, the staff told them that parking for all trails was back down Miramontes Point Road at the 15-space Canada Verde parking lot. The staff made no mention of any available parking facilities on Ritz Carlton property. The 15-



space Canada Verde parking lot was full, so the would-be visitors left without utilizing the trail system available at the Ritz Carlton.

On August 21, 2003, the Commission received an additional report from members of the public indicating that they had been turned away at the greeter's station when they attempted to use the onsite parking facilities. On September 4, 2003, two more complaints were received from members of the public who were directed to park in the Canada Verde 15-space parking lot when they inquired about onsite parking at the Ritz Carlton hotel.

#### Notice of Intent to Commence Cease and Desist Order Proceedings

On October 23, 2003, since Commission staff continued to receive reports from the public stating that they were not able to park on hotel premises as required by the Permit, the Executive Director of the Commission formally issued a Notice of Intent (NOI) to commence Cease and Desist Order proceedings against the Ritz Carlton Hotel Company LLC to compel compliance with the Permit requirements (Exhibit 12).

After receipt of the Commission's NOI, the Ritz Carlton indicated that they wished to reach a settlement of the issue with Commission staff. After several meetings and extensive negotiations which did not result in an agreement, Commission staff contacted the Ritz Carlton by letter dated February 26, 2004 and indicated that the matter would be scheduled for a unilateral Cease and Desist Order hearing (Exhibit 13). The Commission reinstituted a deadline for receipt of a Statement of Defense form. The Ritz Carlton met that deadline and submitted their Statement of Defense on March 15, 2004 (Exhibit 14).

#### **C. Description of Permit Noncompliance**

The permit noncompliance, which is the subject matter of this Cease and Desist Order proceeding, consists of the Ritz Carlton's failures to provide the public access to 25 public parking spaces on hotel premises as required by the Permit conditions. While the Ritz Carlton maintains that they have provided 25 parking spaces within their hotel garage, the public has, repeatedly and over a period of over three years, not been able to access the spaces at all required times due to continuing problems interacting with various hotel staff (greeters, valets, security, etc.) who must be contacted to gain access to the public parking.

#### **D. Basis for Issuance of Cease and Desist Order**

The statutory authority for issuance of this Cease and Desist Order is provided in §30810 of the Coastal, which states, in relevant part:

- (a) If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.*
- (b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

As discussed in section C of the findings for this Order, the Ritz Carlton has failed to consistently provide the public access to 25 parking spaces on hotel property. This failure to provide is an activity undertaken by the Ritz Carlton, which is inconsistent with CDP 3-91-71/1-95-47. Therefore, the Commission may issue a Cease and Desist Order under section 30810 of the Coastal Act. Furthermore, as discussed in section C, the need to interact with hotel staff to access the public parking spaces on hotel property has resulted in instances where the public is discouraged or prevented from accessing the public parking spaces. Accordingly, pursuant to Section 30810(b) of the Act:

The Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division...

Therefore, the Commission finds that, to ensure compliance with CDP 3-91-71/1-95-47, it is necessary to order the Ritz Carlton to enact measures that enable the public to locate and access the public parking spaces on hotel property without the assistance of hotel staff.

**E. California Environmental Quality Act (CEQA)**

The Commission finds that issuance of a Cease and Desist Order to compel the compliance with CDP 3-91-71/1-95-47 is exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the meaning of CEQA. The Cease and Desist Order is exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15061 (b)(2) and (3), 15307, 15308 and 15321 of the CEQA Guidelines.

**F. Allegations**

The Commission alleges the following:

1. The Ritz Carlton Hotel Company LLC is the owner of the property located at One Miramontes Point Road, Half Moon Bay, San Mateo County (APNs 066-092-780 and 066-092-770).
2. The Ritz Carlton Hotel Company LLC has undertaken activity which is inconsistent with the terms and conditions of CDP 3-91-71/1-95-47 by discouraging and/or preventing the public from parking in the required, free, 25-public parking spaces in the Ritz Carlton parking garage, and failing to both provide such parking and to disclose the availability of the free onsite parking spaces.
3. The Ritz Carlton Hotel Company LLC has not obtained a CDP amendment to change the nature of its Permit parking requirements.
4. In letters dated June 26, 2001, February 13, 2002, April 10, 2002, August 7, 2002 and October 23, 2003, Commission staff informed the Ritz Carlton of its noncompliance with CDP 3-91-71/1-95-47, that its noncompliance constitutes an ongoing violation of the Coastal Act, and requested that noncompliance cease.
5. Despite giving numerous assurances, the Ritz Carlton has failed to consistently provide the public access to the 25 spaces located on Hotel premises, and has violated its Permit condition on an ongoing basis, with at least twelve separate occasions documented by specific complaints.

**G. Violators' Defenses and Commission's Response**

The Ritz Carlton submitted its Statement of Defense on March 15, 2004. A complete copy of the submitted Statement of Defense is included as Exhibit 14 to this report. To summarize the Statement, the Ritz Carlton disagrees that it continues to violate the terms of the Permit. To address the ongoing problems, the Ritz Carlton proposes to move the parking to another portion of the hotel premises. Their Statement of Defense includes their proposal to move the parking (Please refer to Exhibit 14 for site layout and location of new parking area) and restates their desire to settle this matter with the Commission. However, the North Central District Office, who now has regulatory jurisdiction over this permit, has indicated to Commission enforcement staff that the proposed relocation area will not improve public access to parking at the hotel and will likely make the problem worse, since the new area is both farther within the hotel premises and would be adjacent to other high-use areas subject to special events, hotel guest use and Ocean Colony Association club members within the Ritz Carlton

property. Accordingly, Commission enforcement staff has not been able to reach an agreed-upon settlement with the Ritz Carlton.

**Owner's Defense:**

1. "From the opening of the Ritz-Carlton hotel in March 2001, the coastal access program implemented by the developer/owner has been extremely well received by members of the public...Over 250,000 visitors have stayed at the Ritz-Carlton, Half Moon Bay since opening..."

**Commission's Response:**

The Commission agrees with the Ritz Carlton's assertion that the Miramontes Point and Ritz Carlton Hotel coastal access program has been well received by members of the public. The Commission also notes that significant historic and existing public use was demonstrated to have occurred on the property prior to approval of the Permit by the Commission. In light of prior public use and attendant rights, when the original Permit application was considered by the Commission, the Commission could only find the proposed resort hotel consistent with Chapter 3 public access and recreational policies of the Act by requiring the Ritz Carlton to implement a coastal access program of trails, bike paths, bluff top overlooks, public restrooms and support public parking. One aspect of the required public access program has not been successfully implemented by the Ritz Carlton and that aspect consists of the 25 public parking spaces available on hotel premises.

**Owner's Defense:**

2. "One area of the coastal access program that has not functioned as well as originally contemplated...is the portion of the on-site coastal access parking program located in the hotel's Valet Parking Garage...the owner/developer has not failed to provide any required public access facilities. Rather, based upon the allegations in the NOI, the owner/developer appears to have experienced operational problems from time to time in providing convenient and welcoming public access to the existing Valet Parking Garage...we concede that some operational problems probably did occur although we have not been supplied with specific information related to who filed the complaints and the details of the complaints.

Mr. Ratchford, the new hotel general manager, attended a meeting on March 4, 2004 with Coastal Commission staff ...and outlined steps that have been taken...to assure the hotel's compliance...Steps...include:

- Renewed employee training program...;
- Change in staffing of the hotel greeter station from hotel's ...security department to the more welcoming guest services department;

- Commitment to manning the greeter station during daytime hours seven days a week (as opposed to the previous practice: weekends, holidays and whenever the hotel occupancy exceeded 50%).”

**Commission's Response:**

The Ritz Carlton admits there have been reported operational failure to consistently provide 25 onsite parking spaces. The operational failure may be in part due to human staff error and changes in hotel management. The Commission has contacted the Ritz Carlton many times after it has received a complaint from the public, and has documented specifically what has occurred to the Ritz Carlton in several phone calls, letters, and at least three face-to-face meetings, as noted in earlier sections of this report. The Commission is not obligated to disclose the identity of persons who have complained about possible Coastal Act violations concerning the lack of parking availability. In fact, such a requirement could clearly chill the right of the public to report such violations.

The Commission acknowledges that the Ritz Carlton has tried to improve the situation several times over the past three years, but these efforts have proven to be unsuccessful. The public parking must be accessible at all required times and should not depend on which Ritz Carlton staff are working at any given time. The Order will eliminate the possibility of human error by Ritz Carlton staff by making entry to the hotel parking available to the public without staff interaction, through installation of machines that can issue a permit to open the guard gates at the parking structure. The machine to be installed at the garage would receive the issued ticket from the machine to be located at the greeter's station to allow the public entry (the guard gates automatically raise when one is leaving the garage). The Order also requires implementation of training for all Ritz Carlton staff, so that the Permit's requirements are met, and requires that if any members of the public inquire about any kind of public access (trails, beach or parking) the Ritz Carlton staff is required to inform the public about the onsite public parking. The Order also requires the Ritz Carlton to produce and make available to the visiting public a brochure that maps and locates all the public access amenities available on the Hotel premises (as well as those immediately adjacent north and south to the Ritz Carlton). Finally, the Order requires the installation of signs to show the public the availability of **both** parking areas: the 15-space lot at the Canada Verde Beach access way and the 25-spaces available in the Ritz Carlton parking garage. The new signs will be placed within the 15-space lot and on Miramontes Point Road adjacent to the 15-space lot. The new signs will indicate that 25 more spaces are available within the Ritz Carlton's hotel parking garage.

**Owner's Defense:**

3. "...In order to eliminate the potential for human error in the future, the hotel owner and manager have recommended that the 25 parking spaces...be

relocated to a new area in the middle of the hotel property adjacent to the coastal trail. These spaces would be designated for coastal access parking only and would provide members of the public the opportunity to self-park without an interface with the hotel valet parking staff...

**Commission's Response:**

The proposed relocation area is not acceptable to the Commission's North Central District permit staff and management for a variety of reasons, including concerns that it would not meet the intent of the original Permit conditions. The area is farther within the hotel premises and proposed to be located adjacent to the existing Ocean Colony Association club facilities. Some of the existing parking allocated to club usage would be re-designated for public coastal access parking and additional new spaces would be created from existing open lawn space. The proposed relocation area is likely to result in conflict between club members, hotel guest using club facilities and the general public trying to access the coastal trails. In the recent past, the Ritz Carlton has used the lawn area (where they propose to relocate the parking) for overflow parking, and Ocean Colony Association members have objected. The Ritz Carlton has also allowed helicopter landings and the erection of a large tent in this area. During the meeting between Ritz Carlton staff and the Commission staff held on March 4, 2004, the Ritz Carlton general manager, Paul Ratchford, indicated that the Ritz Carlton is pursuing a permit with the City of Half Moon Bay to erect a large tent for eight months of the year, or for short-term special events, such as weddings. The proposed tent location is directly adjacent to the proposed relocation of public parking and would likely result in conflicts.

Despite proposals by the Ritz Carlton to provide more staff to minimize any conflict between user groups and the proposed relocated parking spaces, the Commission cannot find the alternative location to be acceptable under the original Permit. Therefore, the Order requires the Ritz Carlton to implement measures to ensure the consistent availability of the existing 25 public parking spaces in the hotel garage, to assure compliance with the original Permit.

Therefore, the Order requires the Ritz Carlton to implement measures to ensure the consistent availability of the existing 25 public parking spaces in the hotel garage, consistent with the original Permit requirement. The Order will require the Ritz Carlton to eliminate human interface by installing machines to issue and collect permits both at the greeter station and the parking garage. The Order requires all Ritz Carlton employees to receive training on the requirements of the Permit. In addition, the public brochure identifying parking areas as well as the additional signage should eliminate any confusion about where public parking exists on hotel property.

Staff recommends that the Commission issue the following Cease and Desist Order:

## **CEASE AND DESIST ORDER**

Pursuant to its authority under Public Resources Code Sections 30810, the California Coastal Commission ("Commission") hereby orders and authorizes the Ritz Carlton Hotel Company, LLC ("Respondents"), their employees, agents, and contractors, and any persons acting in concert with any of the foregoing to cease and desist from 1) undertaking on the property identified in Section F any activity or development that is inconsistent with CDP No. 3-91-71/1-95-47 as approved by the Commission; 2) undertaking on said property any development that requires a Coastal Development Permit, without obtaining such a permit, and 3) maintaining on said property any such development. Consistent with Public Resources Code Section 30810(b), the Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the original Permit. Accordingly, through the execution of this Order, the Respondents and all persons identified in Section F hereof are ordered to comply with the following terms and conditions.

### **TERMS AND CONDITIONS**

#### **1.1 Provision of Public Parking Spaces and Public Signage**

1. Respondents shall immediately and on an ongoing basis, ensure that 25 public parking spaces are available for public use on the Hotel premises at all times, without charge. Respondents shall clearly identify and isolate 25 contiguous spaces from other available Hotel parking within its parking garage so that the 25 spaces are easily identified and accessible by the public. Additional signage shall be placed adjacent to the 25-space area, showing the way from the parking garage to the public access trails on the hotel premises.
2. Within 30 days of the date of issuance of this Order, Respondents shall prepare and submit, subject to the review and approval of the Executive Director of the Commission, a revised signage plan to be implemented on and adjacent to hotel premises, as originally required by the Permit. The plan shall include, but not be limited to: 1) additional signage adjacent to public parking located in the hotel parking garage as indicated in section 1 of this Order; 2) a sign to be posted on Miramontes Point Drive, adjacent to the existing 15-space lot for Canada Verde beach access. The sign shall indicate that the lot is a public parking lot and that 25 additional public parking spaces are available within the Ritz Carlton garage. The proposed wording and design of the signs must be reviewed and approved by the City of Half Moon Bay prior to submittal to the Executive Director of the Commission; 3) an identical new sign to be placed within the 15-car parking lot at Canada Verde that indicates that 25 additional



public parking spaces are available within the Ritz Carlton parking garage; 4) a new sign to be erected at the intersection of One Miramontes Drive and Highway One that states that Free Public Parking is available within the Ritz Carlton Parking Garage; and 5) revised signage for the Hotel Greeter Station. There shall be two signs placed on the Hotel Greeter station: one that can be viewed from the road as visitors approach the station and one that can be viewed by the driver of a vehicle that stops parallel to the station. The signs shall indicate the availability of the 25 public parking spaces in the hotel garage, and shall explain how to obtain a parking permit for entry into the hotel garage.

3. Within 30 days of receiving notice of the Executive Director's approval of the signage plan, the Respondents shall implement the approved parking and signage. Photographs of the subject property shall be submitted to the Executive Director to document the identified parking area and the placement of required signs.

#### 1.2 Installation of Parking Permit Machines

1. In order to ensure compliance with the original Permit's access requirements, within 30 days of the issuance of this Order, Respondents shall submit, for the review and approval of the Executive Director, a plan for installation of a permit-issuance machine at the hotel greeter station and a similar machine to receive the issued permits and allow entry into the hotel garage to be installed at the public entrance to the Ritz Carlton parking garage. The machines shall allow the public to receive a parking permit and to enter and exit the parking garage without human interface.
2. Respondents shall install the machines and have them working within 30 days of Executive Director approval.

#### 1.3 Public Access Brochure or Pamphlet

1. In order to ensure that the public is knowledgeable of their rights at coastal visitors to the property, consistent with the terms of the original Permit, within 30 days of the date of issuance of this Order, Respondents shall submit, subject to the review and approval of the Executive Director, a draft brochure or pamphlet that identifies and describes all coastal access amenities adjacent to and on hotel premises. The pamphlet shall clearly identify both public parking areas, all coastal trails, bike paths, the bluff-top overlook and the public restroom facilities. The pamphlet shall describe available hours and any limitations on use of any of the facilities consistent with CDP 3-91-71/1-95-47. Finally, the Respondents shall make the brochure or pamphlet available at its greeter station and shall make sure

that copies of the approved brochure are always available for the public at that location.

#### 1.4 Employee Training on Coastal Access Parking and other amenities

1. Within 30 days of the date of issuance of this Order, Respondents shall submit, subject to the review and approval of the Executive Director, its employee-training program for ensuring compliance with the Permit and this Order. The Respondents' employees shall be required to inform anyone who makes **any** inquiry about trails, the beach, coastal access, the bluff-top overlook, or parking about the onsite, free public parking within the hotel garage.

#### IDENTIFICATION OF THE SUBJECT PROPERTY

The property that is the subject of this Order is the property located at One Miramontes Point Road, Half Moon Bay, San Mateo County, APNs 066-092-780 and 066-092-770.

#### DESCRIPTION OF ALLEGED COASTAL ACT VIOLATIONS

The violations that are the subject of this Order include the Respondents' failures to provide the public access to 25 public parking spaces as required in CDP No. 3-91-71/1-95-47. Respondents' failures are not in compliance with previously issued CDP No. 3-91-71/1-95-47, which required the provision of 25 public parking spaces and the public's right to access the 25 spaces.

#### COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these alleged Coastal Act violations pursuant to Public Resources Code Section 30810. The Respondents' failures to provide access to the 25 parking spaces is in non-compliance with previously issued CDP No. 3-91-71/1-95-47. Therefore, for the purposes of issuance and enforceability of this Order, the Commission has jurisdiction to act as set forth in this Order, and Respondents agree that they will not contest the Commission's jurisdiction to issue or enforce this Order.

#### FINDINGS

This Order is issued on the basis of the findings adopted by the Commission, as set forth in the attached document entitled "Staff Report for Cease and Desist Order No. CCC-03-CD-14."

#### EFFECTIVE DATE

This Order shall become effective as of the date of issuance by the Commission and shall remain in effect permanently unless and until rescinded by the Commission.

#### COMPLIANCE OBLIGATION

Strict compliance with this Order by all parties subject thereto is required. Failure to comply with any term or condition of this Order, including any deadlines contained in this Order as approved by the Commission will constitute a violation of this Order and may result in the imposition of civil penalties of up to six thousand dollars (\$6,000) per day for each day in which such compliance failure persists.

#### DEADLINES

The Executive Director for good cause may extend deadlines. Any extension request must be made in writing to the Executive Director and received by Commission staff at least ten (10) days prior to expiration of the subject deadline.

#### APPEAL

Pursuant to PRC section 30803(b), any person or entity against whom this Order is issued may file a petition with the Superior Court for a stay of the order.

#### ACCESS

Respondents agree to provide access to the subject property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under this Order. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the subject property on which the violation is located, and on adjacent areas of the property to view the areas where development is being performed pursuant to the requirements of the Order for purposes of inspecting and reviewing the progress of Respondents in carrying out the terms of this Order.

#### GOVERNMENT LIABILITIES

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Order. Respondents acknowledge and agree (a) to assume the risks to the property that is the subject of this Order and damage from such hazards in connection with carrying out activities pursuant to this Order; and (b) to unconditionally waive any claim of damage

or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

**SUCCESSORS AND ASSIGNS**

This Order shall run with the land binding all successors in interest, future respondents of the property, interest and facility, heirs and assigns. Respondents shall provide notice to all successors, heirs and assigns of any remaining obligations under this Order.

Executed in Santa Barbara on April 16, 2004, on behalf of the California Coastal Commission.

---

PETER DOUGLAS, Executive Director

**EXHIBITS**

1. Location Map.
2. Location of onsite free public parking and location of offsite, free Canada Verde parking.
3. Signed Notice of Intent to Issue CDP 3-91-71/1-95-47 and CDP 3-91-71/1-95-47.
4. Letter dated June 26, 2001, from Commission staff to Mr. John Berndt, General Manager for the Ritz Carlton Half Moon Bay.
5. Letter dated July 12, 2001, from Mr. Berndt to Commission staff.
6. Letter dated February 14, 2002, from Commission staff to Mr. Jeffrey J. Mongan, Senior Vice President, The Athens Group, on behalf of the Ritz Carlton.
7. Letter dated March 25, 2002, from Mr. Mongan to Commission staff.
8. Letter dated April 17, 2002, from Commission staff to Mr. Mongan.
9. Letter dated May 1, 2002, from Mr. Mongan to Commission staff.
10. Letter dated August 7, 2002, from Commission staff to Mr. Richard Johnson, Executive Assistant Manager, the Ritz Carlton Half Moon Bay.
11. Letter dated August 29, 2002, from Mr. Johnson to Commission staff.
12. Letter dated October 23, 2003, from the Executive Director of the Commission issuing a Notice of Intent (NOI) to commence Cease and Desist Order proceedings.
13. Letter dated February 26, 2004, from Commission staff re-instating a deadline for the submittal of the Statement Of Defense and notifying the Ritz Carlton of the staff's decision to schedule a hearing for formal Cease and Desist Order proceedings.
14. Statement of Defense received on March 15, 2004.

# LOCATION MAP

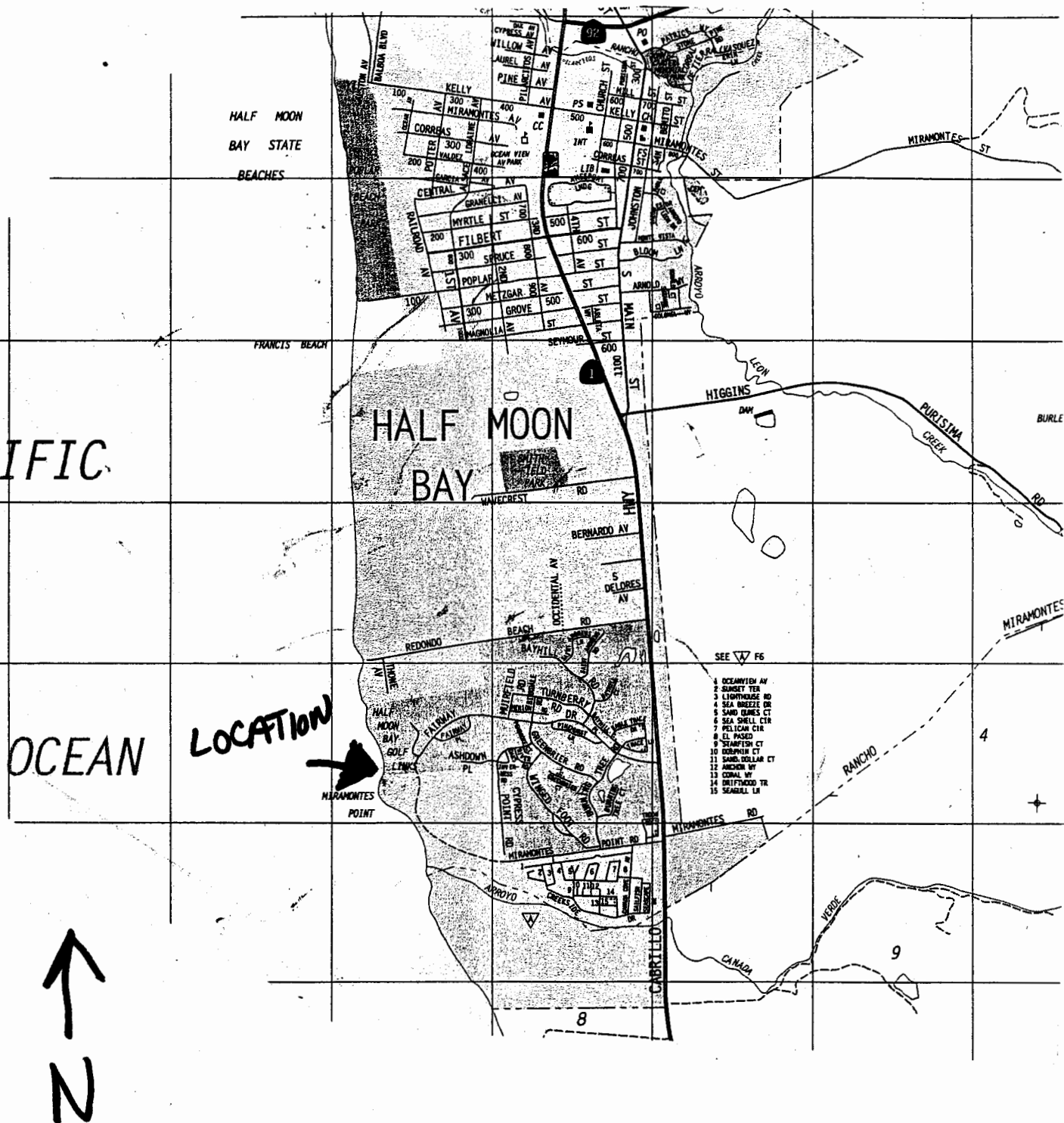
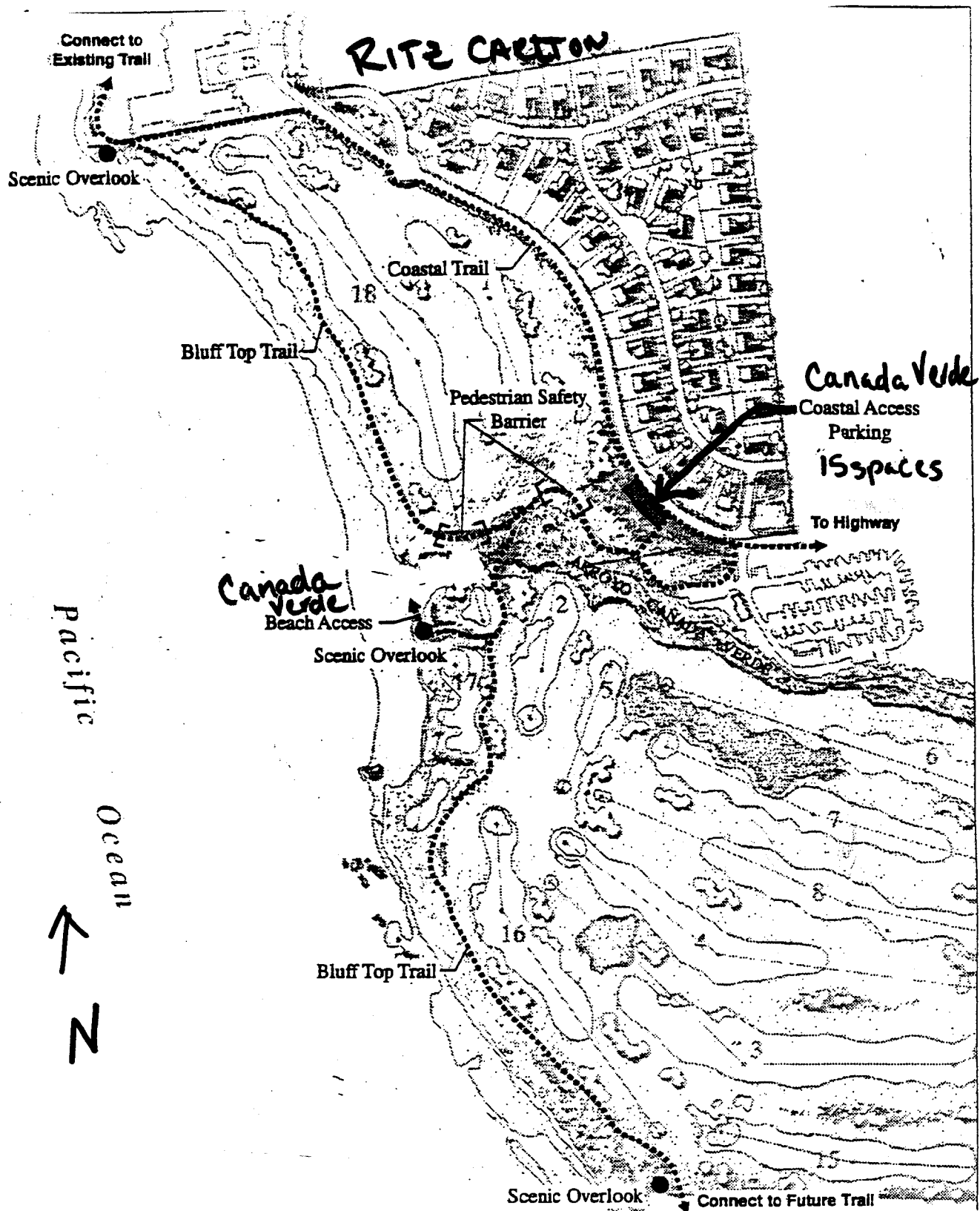


Exhibit #1  
CCC-03-CD-014

Exhibit 3  
CCC-03-CD-14-A &  
CCC-19-AP-01  
Page 22 of 86



## OFFSITE PARKING AT CANADA VERDE

Exhibit #2

CCC-03-CD-014

Page 2 of 2

Exhibit 3

CCC-03-CD-14-A &

CCC-19-AP-01

Page 23 of 86



## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE  
640 CAPITOLA ROAD  
SANTA CRUZ, CA 95062  
(408) 479-3511

Page 1 of 2

Date: April 24, 1992

Permit Application No. 3-91-71

NOTICE OF INTENT TO ISSUE PERMIT

On October 10, 1991, by a vote of 9 to 1, the California Coastal Commission granted to HALF MOON BAY RESORT PARTNERS and CITY OF HALF MOON BAY Permit 3-91-71, subject to the attached conditions, for development consisting of:

350 unit resort hotel complex, land division, and extension of Miramontes Pt. Road (see Finding 1 for complete description); more specifically described in the application file in the Commission offices.


The development is within the coastal zone in San Mateo County, including the hotel portion, at 200 Fairway Drive, seaward of Ocean Colony at Miramontes Pt.; and the road portion, from existing Miramontes Pt. Road to hotel site, City of Half Moon Bay.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions 4, 6, 7, 9, imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission on April 24, 1992.

PETER DOUGLAS  
Executive Director

By:

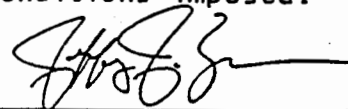
  
Les Strnad  
Chief of Permits

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. 3-91-71, and fully understands its contents, including all conditions imposed.

APRIL 29, 1992

Date



Permittee

Please sign and return one copy of this form to the Commission office at the above address.

A5: 4/88 5884A

Exhibit #3

CCC-03-CD-014

Exhibit 3

CCC-03-CD-14-A &  
CCC-19-AP-01

Page 1 of 14

Page 24 of 86

## CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

COASTAL DEVELOPMENT PERMIT

On October 10, 1991, the California Coastal Commission granted to  
**HALF MOON BAY RESORT PARTNERS & CITY OF HALF MOON BAY.**  
this permit subject to the attached Standard and Special conditions, for development  
consisting of

350 unit resort hotel complex, land division, and extension of Miramontes Pt.  
Road (see Finding 1 for complete description),

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone in the San Mateo County, including  
the hotel portion at 200 Fairway Drive, seaward of Ocean Colony at  
Miramontes Pt.; and the road portion, from existing Miramontes Pt. Road to  
hotel site, City of Half Moon Bay.

Since approval of the project, the permit has been assigned to VESTAR-  
ATHENS/YCP II Half Moon Bay, L.L.C.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS

Executive Director

By ROBERT S. MERRILLTitle Chief of PermitsACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide  
by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4  
which states in pertinent part, that: "A public entity is not liable for injury caused by  
the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE  
PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE  
COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

---

Date

---

Signature of Permittee

COASTAL DEVELOPMENT PERMIT

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## COASTAL DEVELOPMENT PERMIT

### SPECIAL CONDITIONS:

Please see the Special Conditions on the attached Adopted Staff Report Conditions.

#### 1. Incorporation of City Conditions.

The conditions of City of Half Moon Bay Site and Design Permit No. PSD-19-89 and Use Permit No. UP-14-89 (Exhibit B, attached) are hereby incorporated as conditions of this permit. Any changes in the City permit conditions shall be submitted for review by the Executive Director and, if found material, will be subject to approval by the Commission as amendments to this permit.

#### 2. On-site/Ocean Colony Public Access Program.

Permittee shall provide for the establishment of, and arrange for maintenance of, public access facilities to and along the shoreline as follows:

- a. Miramontes Pt. Visitor parking. A public parking area on hotel premises at Miramontes Pt., min. 25 spaces, as provided by the Ocean Colony Planned Unit Development Ordinance (Ordinance No. 4-91). Such parking area shall be open during daylight hours commencing at sunrise and at least until one hour after sunset throughout the year. (With respect to this coastal development permit, permittee may satisfy this condition by demonstrating that a like quantity and quality of parking, along with a paved access road, has been provided as an addition to the required parking at the seaward end of Redondo Beach Road).

- b. Miramontes Pt. Overlook. A blufftop scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Pt. Such overlook shall be designed to accommodate at least one visitor (paying or non-paying) per every 5 hotel rooms at any one time, and shall include a safety rail or barrier which does not interfere with public views, and benches or lawn chairs. The overlook's structural features shall be designed to facilitate relocation as needed to respond to shoreline erosion, and their retention in situ shall not be considered justification for future shoreline protection works. The public use area shall include at a minimum the entire area of the hotel parcel falling between the bikeway route and the bluff edge safety rail, adjusted as necessary to insure that the combined

width of the bikeway and public use area is never less than 30 ft. in width as measured from the seaward (westernmost) wall of the hotel.

- c. Connecting path. A paved sidewalk or pedestrian access path for public use, at least 5 ft. in width, between the hotel's public parking area (2.a above) and the blufftop overlook (2.b above), connecting to the bikeway leading to Redondo Beach (2.d below).
- d. Coastside Bikeway segment. A hard surface (chip seal asphalt or equivalent) off-road bikeway, generally 10 feet in width, with a parallel unpaved (jogging) path 2 feet in width, connecting the extended Miramontes Pt. Road, the blufftop overlook area (2.b above), and the southern end of Olive Avenue. Where obstacles such as wetland habitat zones prevent path construction at full width, variance may be allowed for a combined bicycle-pedestrian path, which in no event is less than 8 ft. in width. Secure bicycle parking shall be provided near the hotel's public use areas.
- e. Roadside bike lanes. Bicycle lanes, or hard surface shoulders at a combined width of at least 10 ft., connecting the hotel site to State Highway Route 1. The bicycle route should be separated from Miramontes Pt. Road by barriers or landscaping. Where right-of-way constraints prevent such separation, the bike route shall be clearly marked by shoulder stripes, and automobile parking that would impair bicycle access shall be prohibited.
- f. Canada Verde beach parking. Parking spaces or pullouts along the new portion of Miramontes Pt. Road, suitable for parking for scenic viewing or beach visits, minimum 15 spaces.
- g. On-site/Ocean Colony area vertical beach access. A pedestrian access path parallel to the drainage swale dividing the 18<sup>th</sup> fairway of the Ocean Colony golf course. Such access path shall connect the Miramontes Pt. Parking area (2.a above) to the beach via the adjoining segment of the Coastside Bikeway. Seaward of the bikeway, the beach access path shall include an all-weather surface at least 8 ft. in width, with stairway from bluff edge to beach. The accessway shall be designed to avoid interference with golf play and to prevent injury to pedestrians. Appropriate design measures include excavations below grade, berming, and wire mesh safety barriers. The pathway shall be designed and located to preclude any significant disruption of existing riparian vegetation. Any reductions of riparian vegetation shall be offset with an equal or greater area of riparian enhancement vegetation. Signage shall be included to warn pedestrians of potential danger during periods of high surf or storm conditions.

As an alternative, the applicant may provide stairway access to Canada Verde Beach. Such stairway access shall connect via pathway to the Coastside Bikeway (2.d above) in the vicinity of Miramontes Point overlook (2.b above) southwest of the hotel site and shall be in general conformance with the beach access stairway included in the city's approvals.

(Permittee may satisfy this condition by demonstrating that equivalent off-site pedestrian access facilities including all-weather paths and stairways, linking the hotel site (Miramontes Point overlook) to the beach at the mouth of Canada Verde canyon and to the beach at the end of Redondo Beach Road, have been provided.

- h. Signage. Access routes, public parking, Miramontes Pt. Overlook, and public restrooms shall be clearly marked for public use. The text, design and location of such signs, which shall be clearly visible, shall be subject to Executive Director review and approval prior to installation.
- i. Restrooms. An enclosed public restroom facility, equivalent to at least two portable toilets for each gender, and conforming to California Department of Parks and Recreation standards for such facilities, shall be provided on the hotel site convenient to the Miramontes Pt. Overlook or the vertical beach access path. One of the restrooms in the hotel's public areas may be identified and signed for this purpose. (Permittee may also satisfy this condition by demonstrating that equivalent off-site restroom capacity has been provided as provided in Special Condition no. 3.f below.)

3. Off-site Public Access Program.

Because there will not be adequate room to provide for a satisfactory range of low/no cost recreational facilities on the hotel site, the hotel permittee shall be responsible for providing such facilities at adjacent and nearby locations. Permittee shall make a diligent, good faith effort to perform the requirements under part I of this condition, immediately below. Permittee shall, within six months of the date of Commission approval of this permit, submit for Commission review and approval a plan and schedule for implementing Part I below. This plan shall identify a methodology for planning, locating, permitting, design, construction and maintenance of off-site public access facilities described in Part I. If permittee is prevented from performing the requirements under Part I, permittee shall comply with the terms of part II of this condition.

**PART I**

Exhibit #3  
CCC-03-CD-014

Exhibit 3  
CCC-03-CD-14-A &  
CCC-19-AP-01

PRIOR TO OCCUPANCY OF HOTEL, permittee shall submit final, City-approved plans, together with all necessary property interests, offers to dedicate access easements (in conformity with the terms of 4.b., below) and a construction schedule demonstrating that the off-site access improvements required hereunder shall be completed no later than six months from the date of occupancy.

- a. Coastside Bikeway segment. A hard surface (chip seal asphalt or equivalent) off-road bikeway, 10 feet in width, with a parallel unpaved pedestrian (jogging) path 2 feet in width, connecting the end of the on-site bikeway segment (2.d, above) at the southern end of Olive Ave. to the seaward end of Redondo Beach Road. Secure bicycle parking shall be provided near the Redondo Beach Accessway (3.c below). Subject to the Executive Director's review and approval, the bikeway alignment may be adjusted to accommodate future uses approved pursuant to the North Wavecrest Redevelopment Plan.
- b. Canada Verde beach access paths. Pedestrian access paths and stairway connecting the hotel site and Miramontes Pt. Road parking areas to Canada Verde beach, with stairway located at or near lowest point of bluff at mouth of canyon. Path surface to be at least 5 feet in width, and improved with asphalt, decomposed granite or other surface materials for all-weather use. The hotel-Canada Verde beach path shall be located entirely seaward of the extended Miramonte Pt. Road and, unless provided otherwise by a Coastal Commission-approved South Wavecrest Redevelopment Plan or prevented by lack of ownership interest, shall be located within 100 ft. of the seaward edge of the coastal bluff top. Secure blufftop bicycle parking shall be provided for beach users. If path crosses Canada Verde Stream, bridge location, design and installation procedure shall be subject to review by the California Department of Fish and Game; appropriate stream alteration agreement or other evidence of Department of Fish and Game approval shall be submitted. Subject to Executive Director review and approval, the pedestrian path alignment may be subjected to accommodate future uses approved pursuant to the South Wavecrest Redevelopment Plan, or to consolidate stream crossings on a single bridge.
- c. Redondo Beach accessway. An improved overlook, beach access stairway, and 25 space public parking facility at the seaward end of Redondo Beach Road. This amount shall be increased to 50 spaces if no on-site public parking is provided at Miramontes Pt. The improved overlook shall be handicapped-accessible. The overlook's structural design shall adhere to the same standards as provided for the Miramontes Pt. Overlook (2.a above). The stairway design shall conform to applicable standards listed for vertical access (2.g above).



- d. Redondo Beach Road repairs. Repair of Redondo Beach Road to provide suitable all-season access to the shoreline. Such road surface shall be of chip-seal asphalt or equivalent.
- e. Signs and trash receptacles. Access routes, public parking, overlook, and public restrooms shall be clearly marked for public use. The text, design, and location of such signs, which shall be clearly visible, shall be subject to Executive Director review and approval prior to installation. Trash receptacles shall be provided and shall be emptied as frequently as necessary to maintain the facilities in a clean and attractive condition.
- f. Restrooms. Enclosed restroom facilities shall be provided and maintained for public use at: 1) south of the hotel site, to serve Canada Verde beach – unless one of the restrooms in the hotel's public area is identified and signed for this purpose; and 2) the end of Redondo Beach Road. The minimum standard for each facility shall be the equivalent of two portable toilets at each site, conforming to California Department of Parks and Recreation standards for such facilities, screened or sheltered in a manner acceptable to the City's architectural review board.

## PART II

If the permittee is not able to comply with the terms of Part I above within the required period, in the alternative and in addition to the On-site/Ocean Colony access programs required in condition 2 above, permittee shall participate in the completion of off-site public access improvements within the adjacent North and South Wavecrest Redevelopment areas, including roads, trails, parking facilities, restrooms and vertical accessways. Permittee's participation shall be in the form of a cash deposit, in an account designated by the Executive Director, in the amount of \$250,000 payable to the California Coastal Commission or the California Coastal Conservancy. Such deposit shall be available for distribution to a public agency or a private non-profit association designated in writing by the Executive Director of the Coastal Commission exclusively for the acquisition of land and/or construction of public access improvements within the North and South Wavecrest Redevelopment areas. Such funds shall be deposited PRIOR TO OCCUPANCY OF HOTEL.

### 4. Implementation of On-Site/Ocean Colony and Off-site access Programs.

Detailed plans for each access feature listed above shall be provided for Executive Director review and approval. In the case of On-site/ocean Colony access features required in Condition 2 above, such plans shall be submitted PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT. In the case of Off-site access

Exhibit 3  
CCC-03-CD-14-A &  
Exhibit #3  
CCC-03-CD-014  
Page 31 of 86

required in Condition 3, above, plans submitted in compliance with Part I of Condition 3 shall be submitted PRIOR TO OCCUPANCY OF HOTEL. In the event Condition 3 is implemented under the terms of Part II thereof, permittee's cash deposit shall be made PRIOR TO OCCUPANCY OF HOTEL. Such plans shall include any necessary supporting documents, including but not limited to the following:

- a. Within hotel/Ocean Colony property, offer to dedicate pedestrian and bicycle access easement(s) to City of Half Moon Bay, Department of Parks and Recreation, Coastal Conservancy, or other appropriate public agency approved by the Executive Director.
- b. For each Off-site access improvement, either the City or the hotel applicant shall provide legal documents (such as a dedicated right-of-way, access easement, irrevocable offer to dedicate easement, binding agreement with public agency, or combination thereof) demonstrating the necessary property interest(s) for trail construction.
- c. For all offers to dedicate easement, the following procedures shall apply. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT in the case of all On-site/Ocean Colony access requirements, and PRIOR TO OCCUPANCY OF HOTEL in the case of all Off-site access requirements, the land shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for passive recreational use and public access to and along the shoreline, as applicable. The document shall provide that, in conformity with Section 30212 of the Coastal Act, any Off-site accessways shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of said accessways. Notwithstanding, the document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easements shall be a minimum of 15 feet wide; and, shall encompass the Miramontes Pt. Overlook public use area (2.b above), the on-site Coastside Bikeway segment (2.d above), the on-site/ocean Colony vertical beach access (2.g above) if required, the off-site Coastal Bikeway segment (3.a above) except where located on existing public lands or street rights-of-way, the Canada Verde beach access paths (3.a above) except where located on existing public lands or street rights-of-way, and all areas of the hotel property which may fall between the toe of the bluff and the mean high tide line of the sea. The recorded document(s) shall include legal descriptions of both the applicant's entire parcel and the easement area. The document(s)

shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect said interest. The offer shall run with the land in favor of the People of the State of California binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

- d. Identification of construction schedule, funding sources and other arrangements needed to complete the approved trails, restrooms, parking and road improvements in accordance with the Part I access plan and schedule required in condition 3 above. While it is the responsibility of the hotel permittee to insure that the required access and low cost recreational facilities are provided, the terms of this permit shall not be construed to discourage cooperation, assistance, funding or other coordination by the City, the Calif. Coastal Conservancy, the Calif. Dept. of Recreation, or other access providers and managers.
- e. (Intentionally left blank.)
- f. A repair and maintenance program. Within permittee's property, permittee shall arrange for repair and maintenance of the trail, which shall be maintained at original width and surface quality. Permittee shall likewise be responsible for repair of and arrangements for maintenance of, the On-site/Ocean Colony access facilities installed pursuant to this permit, except where such responsibility is assumed by a public agency. Permittees may contract with public agency or others to perform this function. This obligation shall run with the land and shall be recorded in accordance with the following standard procedures:
- g. Identification of management entity. This may be the permittee, the City, the California Department of Parks and Recreation, or other authority subject to concurrence by the Executive Director. It is recognized that the management responsibility may be split, changed or reconstituted from time to time, subject to concurrence by the Executive Director.
- h. Proposed restrictions and limitations on public use; provided, however, that nothing in this condition shall be construed as requiring permittee to operate these access facilities during severe storms or other conditions presenting any unavoidable, clear and present danger of bodily harm to trail users, nor during hours of darkness commencing one hour after sunset. The management entity(ies) for the various access facilities shall post and enforce restrictions to preclude motor vehicle use of trails, restrict unleashed dogs and firearms, discourage

Exhibit 3

CCC-03-CD-14-A &

CCC-19-AP-01

Page 33 of 86

littering, prevent open fires, and similar measures designed to promote the safety and enjoyment of the visitor experience.

On-site/Ocean Colony public access programs shall be fully implemented PRIOR TO OCCUPANCY OF HOTEL.

5. Low cost recreation facilities/in-lieu fee

In addition to the on-site and off-site access programs listed above, permittee shall insure that a reasonable amount of low cost overnight recreational accommodations are provided as well. Because no low cost overnight accommodations are provided on-site, this obligation shall be met by construction of campground facilities, complete with flush-toilet restrooms, with sufficient tent camp sites including picnic tables and automobile parking to serve the equivalent of 20% of the hotel rooms which are constructed. Such campground facilities shall be located either within the City of Half Moon Bay or within 5 miles of the approved hotel site; shall be ready and opened to public use PRIOR TO OCCUPANCY OF HOTEL; and shall be available at market-rates or the current rate charged by the California Dept. of Parks and Recreation for comparable facilities, whichever is less. The design of the campground restroom and other associated facilities shall meet current applicable standards recommended by the Calif., Dept. of Parks and Recreation. The location, final design, and legal arrangements to insure that the campsites shall always be available at low cost for the duration of the permitted structures, shall be submitted for review and approval by the Coastal Commission WITHIN 90 DAYS FOLLOWING COMMENCEMENT OF CONSTRUCTION of the permitted hotel. Such submittal shall be accompanied by evidence of compliance with the Calif. Environmental Quality Act (CEQA) and local governmental approval; or if on federal land, equivalent review under federal law.

As an alternative, permittee may elect to comply with this condition through payment of a fee in lieu of campground construction. In such event, permittee shall make a cash deposit, in an account designated by the Executive Director, in an amount not less than \$350,000 payable to the California Coastal Commission. Such deposit shall be available for distribution to a public agency or a private non-profit association designated in writing by the Executive Director of the Coastal Commission (including, but not limited to, the Calif. Dept. of Parks and Recreation) for the acquisition of land and/or construction of low cost visitor serving overnight accommodations within or near the City of Half Moon Bay. Such funds shall be deposited, beginning with 10% of the total due PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, and the balance PRIOR TO OCCUPANCY.

Provision of campground facilities and/or in-lieu fees may be phased in tandem with, and proportionate to, the number of hotel rooms approved for construction under any phase of the approved project.

6. Prohibition on Conversion to Exclusive Use.

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence to the Executive Director that a deed restriction has been recorded for the hotel site which indicates that this coastal permit authorizes the development of a 350 unit resort hotel, which is a proposed visitor serving use exclusively available to the general public. Furthermore, the deed restriction shall specify that conversion of any portion of the approved facilities to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public is specifically not authorized by this permit and would require an amendment to this permit or a new permit and/or amendment to the certified LCP in order to be effective.

7. Geologic Hazards; Waiver of Liability, Assumption of Risk.

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction or other document in a form and content acceptable to the Executive Director which shall provide: (a) that the applicant understands that the project site may be subject to extraordinary natural and manmade hazards including but not limited to shoreline erosion, structural failure, earthquakes and related seismic hazards and other geologic conditions; and, (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission approval of the project for any damage caused by the project and/or due to natural or manmade hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens. In accepting this permit, permittee acknowledges that there is no entitlement to shoreline protection works at end of project life or in event of unexpected rates of erosion. Permittee may have to dismantle portions of hotel and reroute bikeway in such event.

8. Containment of debris and construction impacts.

Temporary exclusion fencing (9.b below) shall be in place before grading. Location of such fences shall be flagged in the field and shall be subject to Executive Director review and approval PRIOR TO COMMENCEMENT OF GRADING. No disposal of spoils or debris over cliff shall be allowed. Disposal location of excess spoils and debris shall be subject to Executive Director review and approval if within the Coastal Zone.

9. Review of Final Plans.

Final construction, grading, drainage, erosion control and landscaping plans shall be submitted for Executive Director review and approval PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT.

Exhibit #3  
CCC-03-CD-014  
CCC-03-CD-14-A &  
CCC-19-AP-01

- a. Maximum height of hotel shall not exceed the height of the development as illustrated in the plans submitted with the application.
- b. Grading plan shall show location of temporary exclusion fence for protection of riparian habitat and sensitive bluff edge area.
- c. Drainage and erosion control plan to include measures for prevention of saturation and gulying of bluff edge, on and off hotel site. Also show discharge points and energy dissipation methods for drainage from Miramontes Point Road.
- d. Site Plans shall show revised hotel, bungalow, road parking and tennis court siting, particularly as may be required to accommodate the required on-site access program.
- e. Construction plans for on-site and off-site access improvements shall be included.
- f. Final plans for Miramontes Point Road shall include final alignment and limits of right of way and shall be accompanied by encroachment permit, if required by Caltrans, and shall detail any changes to the configuration of Highway 1 that may be needed to serve this project.
- g. Landscape plans shall conform with City of Half Moon Bay Land Use Plan standards, and shall include details of the proposed wetland mitigation planting program (species, location, installation procedures, monitoring). The wetland mitigation program shall be accompanied by evidence of review and approval by the Calif. Dept. of Fish and Game, and shall implement the recommendations of the "Concept Mitigation Plan" contained in the biologic report of 10/1/90 by Dr. Mills.

10. Measures to Assure Adequate Sewage Treatment Capacity

- a. In order to avoid the possibility that the project might preempt or deplete sanitary sewer capacity needed by developments previously approved by the Coastal Commission, the project will be phased to provide for a maximum of 275 guest rooms until permittee demonstrates to the satisfaction of the Commission that a greater number is warranted on the basis of 1) increased sewer treatment system capacity, b) decreased demand (such as availability of abandoned sewer connections), c) expiration of prior permits, or d) comparable measures which will assure adequate sewer capacity for all projects previously approved pursuant to coastal development permits within the City of Half Moon Bay portion of the Sewer Authority Midcoastside (SAM) service area. In event the Commission confirms the availability of the necessary sewage treatment capacity, final plans

for the remaining units shall be provided to the Executive Director for review and approval as provided by Special Condition No. 9 above.

- b. In order to determine actual effluent flow rates from this project, a recording sewage flow meter shall be installed and maintained in a manner satisfactory to the City Engineer.
- c. Until the Commission confirms the availability of the necessary additional sewage treatment to serve all 350 units at full occupancy, the following procedure will apply. If, on a calendar per year basis, average daily dryweather flows from this development exceed 33,000 gallons per day (gpd), permittee shall provide to the City of Half Moon Bay or Sewer Authority Midcoastside (SAM), funds sufficient to offset the added costs of treating the excess effluents. Such funds shall be deposited in an account specifically earmarked for treatment capacity improvements. The actual pro-rata amount of such required deposit shall be based on cost estimates provided by SAM, but for purposes of this condition are limited to a maximum of ten thousand dollars (\$10,000) per year for each 1,000 gpd in excess of the 33,000 gpd average annual base rate.

11. Entrance Sign(s).

Plans for the entrance sign(s) shall be submitted for review and approval by the Commission, and shall be accompanied by evidence of approval by the City's Architectural Review Board.



## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



26 June 2001

Mr. John Berndt  
General Manager  
Ritz Carlton Half Moon Bay  
1 Miramontes Point Road  
Half Moon Bay, CA 94019

RE: **Alleged Coastal Act Violation No. V-2-01-11** (Vestar-Athens/Ritz Carlton);  
Reported violations of special conditions of CDP 3-91-71 (renumbered as 1-95-47)  
concerning public access and parking improvements

Dear Mr. Berndt:

I have received a number of reports from various members of the public and Coastal Commission staff members who have experienced difficulty trying to park and otherwise use the designated public access amenities at the Ritz Carlton. We are concerned that the requirements of CDP 3-91-71 (later renumbered as CDP No. 1-95-47) have not been properly implemented, and that a Coastal Act violation exists.

As you know, Coastal Permit No. 3-91-71, later renumbered as CDP 1-95-47, includes a number of special conditions requiring public access and parking improvements at the Ritz Carlton. Special Condition No. 2 requires (a) a 25-spot public parking area on hotel premises that is open during daylight hours; (b) a blufftop scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Point; (c) a paved sidewalk or pedestrian access path for public use between the hotel's public parking area and blufftop overlook, connecting to the bikeway leading to Redondo Beach; (d) an off-road bikeway with a parallel unpaved pedestrian path connecting the extended Miramontes Point Road, blufftop overlook area, and southern end of Olive Avenue; (e) bike lanes connecting the hotel site to Highway One;

Exhibit #4

CCC-03-CD-14-A &  
CCC-03-CD-014 CCC-19-AP-01

Page 1 of 3

Page 38 of 86

(f) 15 parking spaces or pullouts along the new portion of Miramontes Point Road suitable for scenic viewing or beach visits; (g) a pedestrian access path parallel to the drainage swale dividing the 18<sup>th</sup> fairway of the Ocean Colony golf course, connecting the Miramontes Point parking area to the beach via the adjoining segment of the Coastside Bikeway; (h) signage clearly marking for public use all access routes, public parking, Miramontes Point overlook, and public restrooms; and (i) an enclosed public restroom facility.

In November of 1998, Mr. Mongan submitted final revised access plans to Commission staff in compliance with special conditions of the permit. These plans were approved by the Executive Director. I have attached a copy of the relevant portion of the approved plan, which delineates the location of the dedicated public access stalls. The plan shows 23 standard stalls on the second level of the structured parking, as well as two handicap public access stalls near the greeting station. (The 15 parking spaces required by Special Condition No. 2(f) of Coastal Permit No. 3-91-71 were also required as a condition of Coastal Permit No. 1-94-04, issued to Ocean Colony Partners for construction of a golf course and other amenities. These spaces have been constructed.)

Over the last few weeks, we have received numerous complaints concerning public access and parking at the site. People complained variously that there were no longer any signs designating public parking, that there were no handicap spaces as were designated on the project plans, that the entrances to all three levels of the parking garage were blocked by a sign saying "valet parking only," that there were only nine garage spaces marked for public use rather than the required 23, that they were asked to pay as much as \$10 to park, that they had been told that there was no public parking, and that they had been told that the public parking area had been moved because the garage spaces weren't working out for the hotel. Just last week, a visitor was told by a perplexed hotel employee to park "where the caddies park," or in the delivery area.

It appears that all the requirements of your coastal permit are not being met, thus constituting a Coastal Act violation. I spoke with Jeff Mongan earlier this month, and he indicated that you and he had met with Ken Curtis of the City of Half Moon Bay, and had discussed this situation. He also indicated that steps were being taken to rectify the problem. At this time, it does not appear that adequate steps have been taken to rectify the problem, since as recently as June 22<sup>nd</sup>, hotel employees appeared not to know how to deal with requests for public parking, and to be unaware that public parking was permitted on the hotel grounds.

Please respond in writing by July 16, 2001 indicating what steps are being taken to rectify the alleged Coastal Act violations. Please also indicate when the situation will be corrected so that I can arrange to conduct a site visit to ascertain that all special conditions are being complied with.

If you have any questions, please don't hesitate to call.

Exhibit #4

CCC-03-CD-014

Page 2 of 3

Exhibit 3

CCC-03-CD-14-A &

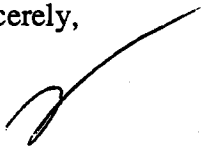
CCC-19-AP-01

Page 39 of 86

JOHN BERNDT  
Page No. 3

Thank you for your cooperation.

Sincerely,



JO GINSBERG  
Enforcement Analyst

Attachment

cc: Chris Kern  
Ken Curtis  
Jeff Mongan  
Virginia Esperanza  
Linda Locklin

Exhibit #4  
CCC-03-CD-014

Page 3 of 3

Exhibit 3  
CCC-03-CD-14-A &  
CCC-19-AP-01  
Page 40 of 86



THE RITZ-CARLTON®  
HALF MOON BAY

July 12, 2001

Jo Ginsberg  
California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, California 94105-2219

RE: Alleged Coastal Act Violation

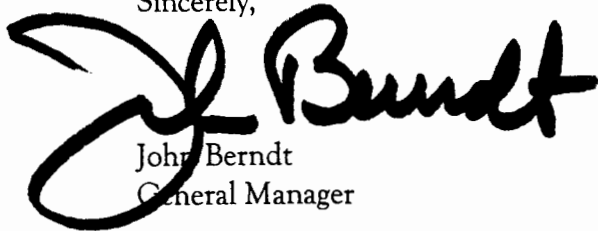
Dear Mr. Ginsberg,

Thank you for bringing to our attention the complaints regarding public coastal access parking. We appreciate you bringing these concerns to our attention.

We apologize for any confusion caused to the public by our staff responses. We have reviewed our processes and administered additional training to the guest service employees involved in greeting, directional escorting and parking. We will be administering on going self audits and continuous training to achieve more consistent reliable results.

I enclose our process procedure description, copy of our logbook and passes issued upon request. Please visit when your schedule permits and I will review our entire procedures, manning guide and training scripts with you thoroughly. We welcome your observations, comments and suggestions. We are dedicated to fulfilling our coastal requirements and guest expectations.

Sincerely,



John Berndt  
General Manager

Exhibit #5  
CCC-03-CD-014



**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



14 February 2002

Jeffrey Mongan, Senior Vice President  
The Athens Group  
2425 East Camelback Road, Suite 1025  
Phoenix, AZ 85016

RE: **Alleged Coastal Act Violation No. V-2-01-11 (Ritz-Carlton): Possible non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47**

Dear Mr. Mongan:

As I indicated in our telephone conversation today, we have received another complaint regarding the public access amenities at the Ritz-Carlton. A visitor to the Ritz-Carlton informed us that the greeting station was unattended, and that after following the public access signs to the parking structure, she was faced with several "Valet Parking Only" signs, as well as guard gates. Unable to enter the parking structure, she spoke to the valet, and told her that she wished to park in the public access parking area so that she could use the public access trail. The valet seemed a little puzzled, then said, "Oh yes, the Coastal Commission requires public parking." She thought for a moment, and then told the visitor that she could just open the gate and let the visitor into the parking garage. The valet noticed a free spot in the service vehicle area, and directed the visitor to that spot. She seemed unaware that there were supposed to be 25 designated public parking spaces in the garage.

In the past, we have had several similar complaints from members of the public who had experienced difficulty trying to park and otherwise use the public access amenities required by **CDP No. 3-91-71/1-95-47**. As a result, Coastal Commission enforcement staff opened the above-referenced Coastal Act violation file regarding the Ritz-Carlton's lack of compliance with the terms and conditions of **CDP No. 3-91-71/1-95-47**, which requires, among other things, 25 public parking spaces on hotel premises. After several phone conversations and meetings over the last six months with you, Mr. Berndt, and Mr. Johnson, it appeared that our concerns had been addressed and resolved. We were assured that the problems had to do with Ritz-Carlton staff being new and untrained concerning the public access requirements, and that the problems would be rectified.

Exhibit #6

CCC-03-CD-014

Page 1 of 2

Exhibit 3

CCC-03-CD-14-A &  
CCC-19-AP-01

Page 42 of 86

It now appears that this is not the case. It appears that Ritz-Carlton staff is still uninformed that there are supposed to be 25 designated public access parking spaces available within the parking structure. In addition, the signs at the parking structure that say "Valet Parking Only" are discouraging to visitors wishing to use the public access amenities at the Ritz-Carlton.

Please take immediate steps to rectify this situation, and inform us in writing what these steps are. Please submit a written description of how the problem has been rectified by 25 February 2002. Failure to do so may result in further enforcement action, including the issuance of a cease and desist order, or referral of the violation to the Attorney General's office for litigation.

If you have any questions regarding the alleged Coastal Act violation matter, please do not hesitate to call me at (415) 904-5269.

Thank you.

Sincerely,



JO GINSBERG  
Enforcement Analyst

cc: Chris Kern, Coastal Commission  
Peter Imhof, Coastal Commission  
Linda Locklin, Coastal Commission  
John Berndt, Ritz-Carlton General Manager  
Richard Todd Johnson, Ritz-Carlton Executive Assistant Manager

Exhibit #6  
CCC-03-CD-014

Page 2 of 2  
Exhibit 3  
CCC-03-CD-14-A &  
CCC-19-AP-01  
Page 43 of 86





coastal access. Nevertheless, we will continue to strive to improve our procedures for coastal access parking including additional directional signage.

As always we are happy to meet with you to review our coastal access parking procedures and supply you with the parking logs maintained at the property. Please don't hesitate to contact me at 602-648-6531 if you need any additional information. Also, Richard Johnson can be reached at the Ritz-Carlton, Half Moon Bay at 650-712-7000.

Sincerely,

VESTAR-ATHENS/YCP II HALF MOON BAY, LLC



Jeffrey J. Mongan  
Senior Vice President

Cc: John Berndt  
Richard Johnson  
Chris Kern  
Peter Imhof  
Linda Locklin

Exhibit #7  
CCC-03-CD-014

Page 2 of 2

Exhibit 3  
CCC-03-CD-14-A &  
CCC-19-AP-01  
Page 45 of 86

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



17 April 2002

Jeffrey Mongan, Senior Vice President  
Vestar-Athens/YCP II Half Moon Bay, L.L.C.  
2425 East Camelback Road, Suite 1025  
Phoenix, AZ 85016

RE: **Alleged Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Possible non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47**

Dear Mr. Mongan:

Thank you for your letter dated 25 March 2002 concerning possible non-compliance with the terms and conditions of **Coastal Permit No. 3-91-71**, which was later renumbered as **CDP No. 1-95-47**.

We appreciate that the Ritz-Carlton may intend to make the system that is currently in place work to provide coastal access parking to the public as required by **CDP No. 1-95-47**. However, we continue to receive complaints from members of the public who have had difficulty trying to park on Ritz property so that they can use the public access trail located on the Ritz property. In addition, when I was in the area on Tuesday, April 9 conducting site visits, I visited the Ritz-Carlton along with several co-workers and encountered the same problems about which we have been hearing for months.

When we drove up to the Ritz-Carlton greeting station at about 3 p.m. on April 9th, it was unmanned, as it frequently has been when members of the public have visited the site, according to recent reports. There is no sign at the greeting station directing members of the public to the on-site Ritz-Carlton public access parking. As one drives in past the greeting station and continues along the road, there is a small sign on the grass to the right of the road that says, "Coastal Access Parking." However, this sign seems to point to nowhere. If one continues along the road, one sees the parking structure on the left, with gates down, locked, and impassable. On Tuesday there was no attendant there and no sign or further instructions on how to proceed. We continued along the road, and saw that the surface parking lot to the right had a

Exhibit #8

CCC-03-CD-014

Page 1 of 3

Exhibit 3

CCC-03-CD-14-A &  
CCC-19-AP-01

Page 46 of 86

"Lot Full" sign posted. We drove around the facility, but saw no one to ask about parking. Finally, we drove up to the front of the hotel, and an attendant greeted us at our car. We asked where the public parking was for visitors who wanted to use the access trail, and he tried to direct us off the hotel grounds to the 15-space County-run parking area along Miramontes Point Road. We persisted in our request for on-site parking. We told the attendant that we believed there was on-site parking for coastal access, and he said that he had worked at the Ritz since it had opened, and he didn't know about any on-site parking, and continued to direct us off the site. At that point, Nancy Cave, the Coastal Commission's Northern California Enforcement Supervisor, told the attendant that we were from the Coastal Commission and that there was supposed to be public parking in the parking structure. He did not know what we were talking about.

Shortly thereafter we encountered another attendant near the "Pro Shop," and asked her about public access parking for the trail. She indicated that she did know what we were talking about, and that there were spots inside the parking structure, but that she was too busy to help us. We told her that the attendant we had encountered in front of the hotel had said there was no public parking for coastal access on the site, and she said he must have been a new employee. We pointed out that he had told us he had worked at the Ritz since it opened. She directed us back to the hotel, and said that if we told the valet there what we needed, he would "buzz us in" to the garage. It appeared that the person she was directing us to ask to be "buzzed in" to the garage was the same person who had told us that he did not know anything about public parking for coastal access.

I have had several similar complaints from members of the public who telephoned us to say that there was no greeter at the greeting station, that the signs are not helpful, and that there was no way into the parking structure. In most cases, an attendant eventually arranged for the visitor to gain access to the parking structure, but only after the visitor drove around in confusion for some time, trying to figure out where the public access parking was located.

In your letter dated 25 March 2002, you state that when a visitor who complained to the Commission entered the site "the visitor was directed to the valet attendant by the signage we have on site." I do not know to which signage you are referring. There is a Coastal Access sign and arrow on Highway One, pointing toward Miramontes Point Road, but no further information. There is no sign at the greeting station directing visitors to the public parking. There is a mysterious sign in the grass that says "Coastal Access Parking" with an arrow, but it doesn't seem to be directed anywhere in particular, and certainly does not lead to any available parking. There are no informative signs on the parking structure, or anywhere else that we could see.

It seems clear that the current system for providing the public with coastal access parking is not working. Four Coastal Commission staff persons who knew that there were designated parking spaces in the parking structure and were fully aware of the requirements of CDP No. 3-91-71/1-95-47, and who repeatedly requested information from Ritz-Carlton employees, were unable to gain access to the designated spaces. We drove around the site for more than fifteen minutes trying to find someone who could give us proper instructions on how and where to park. We

were told by a seasoned employee that there was no public parking on the site for coastal access, and were directed off-site. Most visitors would have given up long before we found a valet who was actually familiar with the procedures. This is not acceptable.

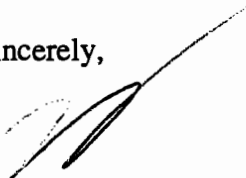
We believe there is a simple solution to the problems that visitors have raised. Better signage would make clear where and how visitors could park. A sign at the greeting station saying something like, "Public Coastal Access Parking in the Garage, See Valet for Entry," plus a sign on the garage itself saying, similarly, something like, "Public Coastal Access Parking Inside Garage, See Valet for Entry" would be very helpful when there is no one at the greeting station, and no attendants immediately visible at the garage.

We would like to resolve this problem as expeditiously as possible, and we hope you will continue to cooperate with us to this end. Please respond by April 29, 2002 with a plan for better signage. We would happy to meet with you or with others from the Ritz-Carlton if that is appropriate. Failure to comply with the special conditions of **Coastal Permit No. 3-91-71/1-95-47** may result in our elevating the violation to our Statewide Enforcement Unit for further enforcement action.

If you have any questions regarding the alleged Coastal Act Violation, please do not hesitate to call me at (415) 904-5269.

Thank you.

Sincerely,



JO GINSBERG  
Enforcement Analyst

cc: Chris Kern, Coastal Commission, North Central Coast District Supervisor  
Peter Imhof, Coastal Planner  
Chanda Meek, Coastal Planner  
Lisa Haage, Assistant Chief of Enforcement  
Nancy Cave, Northern California Enforcement Supervisor  
John Berndt, Ritz-Carlton General Manager  
Richard Todd Johnson, Ritz-Carlton Executive Assistant Manager

Exhibit #8  
CCC-03-CD-014

Page 3 of 3

Exhibit 3  
CCC-03-CD-14-A &  
CCC-19-AP-01  
Page 48 of 86

May 1, 2002

Via Facsimile: 415-904-5400

Ms. Jo Ginsberg  
Enforcement Analyst  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Re: Ritz-Carlton, Half Moon Bay  
CDP No. 3-91-71/1-95-47  
Alleged Coastal Act Violation No. V-2-01-11

Dear Ms. Ginsberg:

The purpose of this letter is to respond to your letter of April 17, 2002. In order to avoid future complaints the Ritz-Carlton management team is implementing several changes to the current parking system. As you pointed out in your letter the problems we have experienced relate to the times when the greeter station is not staffed. Effective immediately Ritz-Carlton has instituted the following changes:

1. The Greeter's Booth will be staffed from sun up to sun down on Friday, Saturday and Sunday as well as holidays and days where the hotel occupancy is projected to be over 50%. This will provide a greeter to direct visitors and members of the public to the various parking facilities, including the coastal access parking.
2. The hotel will purchase and install two additional directional signs to direct visitors to the coastal access parking facilities. One of the signs will be located at the greeter station and one sign will be at the entrance to the parking structure where the coastal access parking is located.
3. The hotel will continue to log and review all requests for coastal access parking including license plate #'s.
4. The hotel will continue to certify all employees on the education, training and responses for coastal access parking requests.

Ms. Jo Ginsberg  
May 1, 2002  
Page two

We are confident that these enhancements to our current parking management system will enhance the visitor experience and address the deficiencies you and your colleagues experienced on your recent visit.

Please call me at 602-648-6531 if you have any further questions or concerns.

Sincerely,

VESTAR-ATHENS/YCP II HALF MOON BAY, LLC



Jeffrey J. Mongan  
Senior Vice President

Cc: John Berndt – Ritz-Carlton  
Richard Johnson – Ritz-Carlton  
Chris Kern – Coastal Commission  
Peter Imhof – Coastal Commission  
Chanda Meek – Coastal Commission  
Lisa Haage – Coastal Commission  
Nancy Cave – Coastal Commission

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



7 August 2002

Richard Johnson  
Executive Assistant Manager  
The Ritz-Carlton Half Moon Bay  
One Miramontes Point Road  
Half Moon Bay, CA 94019

RE: **Alleged Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47**

Dear Mr. Johnson:

I would like to thank you and Mr. O'Bryan for meeting with us yesterday concerning compliance with the terms and conditions of **Coastal Permit No. 1-95-47** (formerly **CDP No. 3-91-71**) (the "Permit"). At our meeting, to ensure compliance with the Permit, you agreed to do the following:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.
2. Change the existing policy of having the Greeter ask visitors who wish to use the public access facilities at the Ritz for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.
3. Ensure that when prospective visitors to the Ritz are greeted at the Greeter's Station, the staff there provides complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the garage, and will not direct people to the County parking lot located off-site near the trailhead.

Exhibit #10

CCC-03-CD-014

Page 1 of 2

Exhibit 3

CCC-03-CD-14-A &

CCC-19-AP-01

Page 51 of 86



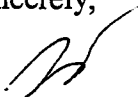
4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it, and there is no valet in sight.
5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz, and not occupied by other cars.

You have indicated that these procedures will all be in place within 30 days; that is, no later than September 5, 2002. Please confirm in writing by that date that these procedures have been implemented. We hope that utilizing these new procedures will finally resolve outstanding issues of permit condition compliance, and end complaints from the public about difficulty in using the public access amenities at the Ritz Carlton.

Please be advised that if the Ritz-Carlton does not come into compliance with **CDP 1-95-47** with respect to this issue, we will recommend formal action by the Commission to resolve this matter. The formal action could include a civil lawsuit, the issuance of a cease and desist order, and/or imposition of monetary penalties.

Thank you for your cooperation.

Sincerely,



JO GINSBERG  
Enforcement Analyst

cc: Chris Kern  
Peter Imhof  
Linda Locklin  
Jeff Mongan



August 29, 2002

Ms. Jo Ginsberg  
Enforcement Analyst  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105-2219

Dear Ms. Ginsberg:

It was a pleasure meeting with you and your team from the California Coastal Commission in reference to our compliance with the terms and conditions of CDP No. 3-91-71/1-95-47. In response to the points in your letter of August 7 we have addressed them as follows:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.

We have already mounted the sign as worded and located as requested.

2. Change the existing policy of having the Greeter ask visitors who wish to use the public access facilities at the Ritz for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.

We have coached our Greeter Booth staff to only ask for the license plate number of the vehicle inquiring of Public Coastal Parking to enable us to keep track of the usage of these parking spots. We will, however, continue our Warm Welcome policy of asking all guests visiting our hotel their names so we can announce and prepare best to receive them at our Front Office. This practice is part of our culture and our philosophy.

3. Ensure that when prospective visitors to the Ritz are greeted at the Greeter's Station, the staff there provides complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the garage, and will not direct people to the County parking lot located off-site near the trailhead.



Exhibit 3

CCC-03-CD-14-A &  
CCC-19-AP-01

We will ensure that when prospective visitors to The Ritz-Carlton are greeted at the Greeter's Booth, the staff there provides complete and accurate information about the existing public access facilities on-site. We will ensure when the staff is asked about public parking, beach parking, public trails etc., the staff will properly inform visitors as to the location and availability of the 25 parking spaces in the garage and will not direct people to the County parking lot located off-site.

4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it, and there is no valet in sight.

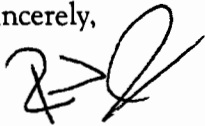
The Greeter's Booth now radios ahead to valet attendants to inform a coastal access visitor is approaching enabling the visitor to be met and greeted by staff and escorted to designated parking spaces.

5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz, and not occupied by other cars.

We will continue to monitor and reserve 25 parking spaces to ensure use for visitors seeking public parking, beach parking, public trails, etc.

Our mission, Ms. Ginsberg, is to abide by the Coastal Access Agreement, CDP No. 1-95-47 and comply with the terms and conditions therein. We will continue to monitor our Greeter Booth staff and all processes you have brought to our attention. Our intentions are to continue to serve our community by contributing increased efforts to provide access to all who enjoy the coastside. We appreciate your assistance and support in our continuous improvement process.

Sincerely,



Richard Johnson  
Executive Assistant Manager - Rooms Division

RJ/mm

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

**SENT BY CERTIFIED MAIL****No. 7002 0460 0003 8376 4457**

October 23, 2003

Paul Ratchford  
Executive Assistant Manager  
The Ritz Carlton, Half Moon Bay  
Ritz Carlton Hotel Company, LLC  
One Miramontes Point Road  
Half Moon Bay, CA 94019

**RE: Notice of Intent to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47;**

**Property Address:** One Miramontes Point Road, Half Moon Bay, San Mateo County;  
APNs 066-092-780 and 066-092-770

Dear Mr. Ratchford:

This letter is to notify you of my intent to commence proceedings for the issuance by the California Coastal Commission of a Cease and Desist Order to the Ritz Carlton, Half Moon Bay and Ritz Carlton Hotel Company, LLC (hereinafter "Ritz Carlton") to address continuing non-compliance with the terms and conditions of **Coastal Development Permit No. 3-91-71/1-95-47** ("the Permit")<sup>1</sup>.

The Permit includes a number of special conditions requiring public access and parking improvements at the Ritz Carlton facilities at One Miramontes Point Road, Half Moon Bay. Special Condition No. 2 of the Permit requires (a) a 25-spot public parking area on hotel premises that is open during daylight hours; (b) a bluff top scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Point; (c) a paved sidewalk or pedestrian access path for public use between the hotel's public parking area and bluff top overlook, connecting to the bikeway leading to Redondo Beach; (d) an off-road bikeway with a parallel unpaved pedestrian path connecting the extended Miramontes Point Road, bluff top overlook area, and southern end of Olive Avenue; (e) bike lanes connecting the

<sup>1</sup> CDP 3-91-71 was renamed and subsequently renumbered as CDP 1-95-47.

hotel site to Highway One; (f) 15 parking spaces or pullouts along the new portion of Miramontes Point Road suitable for scenic viewing or beach visits; (g) a pedestrian access path parallel to the drainage swale dividing the 18<sup>th</sup> fairway of the Ocean Colony golf course, connecting the Miramontes Point parking area to the beach via the adjoining segment of the Coastsides Bikeway; (h) signage clearly marking for public use all access routes, public parking, Miramontes Point overlook, and public restrooms; and (i) an enclosed public restroom facility.

Special Condition No. 4 of the Permit requires the above-identified access related amenities required in Special Condition No. 2 to be incorporated into revised project plans that are approved by Commission staff. In November of 1998, Jeffrey Mongan of The Athens Group submitted final revised access plans to Commission staff in compliance with this requirement. The Executive Director approved these plans. The approved plans show a total of 25 public parking spaces: twenty-three (23) standard stalls located on the second level of the structured parking; and two (2) handicap public access parking stalls located near the hotel greeting station.

For nearly two years, Commission staff has received ongoing complaints from members of the public and from staff who have experienced difficulty utilizing the required coastal access and public parking improvements on the Ritz Carlton property. Such failure to provide public access in conformance with the approved plans constitutes a violation of the requirements of the Permit, and therefore the Coastal Act. Since we first contacted the Ritz Carlton regarding these complaints in June of 2001, Commission staff has repeatedly received assurances from Ritz-Carlton management that these problems have been rectified; yet we continue to receive complaints, indicating that the Ritz Carlton has failed to adequately comply with the Permit's conditions. Since all other measures have failed, in order to ensure compliance with the conditions of the Permit, I am therefore recommending that the Commission issue a Cease and Desist Order to ensure compliance with the terms and conditions of the Permit.

### **History of the Violation Investigation**

Commission staff first notified Richard Johnson, then executive assistant manager, of the violation on the Ritz Carlton property in a letter dated June 26, 2001, from the North Central Coast District Enforcement Officer Jo Ginsberg. Ms. Ginsberg informed Mr. Johnson that Commission staff had received numerous complaints concerning lack of public access and parking at the Ritz Carlton site, indicating that people had complained that: (1) there are no longer any signs designating public parking; (2) there are no handicap spaces as were designated and approved on the project plans; (3) the entrances to all three levels of the parking garage are blocked by a sign saying "valet parking only"; (4) there are only nine garage spaces marked for public use rather than the required 25; and (5) Ritz Carlton staff require visitors to pay as much as \$10 to park, and/or tell them a) that there is no public parking, b) that the public parking area has been moved because the garage spaces aren't working out for the hotel, and/or c) to park in the delivery area or "where the caddies park."

In a letter to Ms. Ginsberg dated July 12, 2001, John Berndt, General Manager of the Ritz Carlton, stated that additional training to the guest service employees had been provided, and that he was dedicated to fulfilling the Ritz Carlton's coastal requirements.

Exhibit 3  
Exhibit #12CCC-03-CD-14-A &  
CCC-03-CD-014CCC-19-AP-01

Page 56 of 86

Following a meeting with Commission enforcement staff, Mr. Johnson wrote a letter dated August 29, 2001 to Ms. Ginsberg stating that he would do everything in his power to comply with what he referred to as the "Coastal Access Agreement." We assume Mr. Johnson was referring to the approved access plans, required by and approved as part of the Ritz Carlton's coastal development permit.

In subsequent correspondence dated February 11, 2002, Commission staff indicated that another complaint had been lodged concerning continuing problems with the public access amenities at the Ritz Carlton, with the unfamiliarity of Ritz Carlton staff with the public access amenities and the proper procedures for allowing visitors to use these amenities. Commission staff noted that the signs at the parking structure that say "Valet Parking Only" discourage visitors from using the public access amenities at the Ritz Carlton, and that Ritz Carlton staff continues to fail to direct visitors to the 25 designated public access parking spaces in the parking structure and on the Ritz Carlton property that the Permit requires.

A letter from Jeffrey Mongan, Senior Vice President, dated March 25, 2002 assured Commission staff that "the Ritz Carlton management team is doing an admirable job of accommodating the visiting public and maintaining compliance with the requirements for coastal access parking."

During a visit to the Ritz Carlton on April 9, 2002, Commission staff experienced problems accessing the public parking spaces on the Ritz Carlton property. The greeting station was unmanned, there was no sign at the greeting station directing members of the public to the on-site Ritz Carlton public access parking, there was a misleading "Coastal Access Parking" sign that pointed to nowhere, and the parking structure was locked, with gates down, and impassable. Since there was no staff present to ask about parking, they drove to the front of the hotel and asked an attendant where the public parking was for visitors who wanted to use the access trail. The attendant tried to direct them off the hotel grounds to the 15-space County-run parking area along Miramontes Point Road. When Commission staff persisted in their request for on-site parking, the attendant told them he had worked at the Ritz Carlton since it had opened, he was unaware of any on-site parking for public visitors, and he continued to direct them off the site. When Commission staff pointed out that they knew there was public parking in the parking structure, the attendant told them this was not so. These experiences were detailed in Ms. Ginsberg's letter to Mr. Mongan dated April 17, 2002.

In her April 17, 2002 letter, Ms. Ginsberg also indicated that she had received similar complaints from members of the public who telephoned to say that there is no hotel staff at the greeting station, that the signs are uninformative, and that there is no access to the parking structure. The letter further stated that it seemed clear that the Ritz Carlton's system of providing the public with coastal access parking is not working and is unacceptable. Commission staff requested that a sign be posted at the greeting station stating something to the effect of "Public Coastal Access Parking in the Garage, See Valet for Entry." Commission staff also suggested that a similar sign be posted on the garage itself.

In a letter dated May 1, 2002, Jeffrey Mongan stated that to avoid future complaints, the Ritz Carlton management team was, "effective immediately", implementing several changes to the current parking system, including: (1) staffing the greeter station from sun up to sun down on Friday, Saturday, and Sunday as well as holidays or days where the hotel occupancy was projected to be over 50%; (2) placing two additional signs to direct visitors to the coastal access parking facility, one at the greeter station and one at the entrance to the parking structure; (3) recording and reviewing all requests for coastal access parking including license plate numbers; and (4) providing additional education and training to all hotel employees on the proper responses to coastal access parking requests.

In a follow-up letter dated May 15, 2002, Mr. Johnson indicated that all the proposed changes had been successfully implemented and that the management team was "committed to enhancing the Coastal Access experience at the Ritz Carlton, Half Moon Bay."

In a letter to Mr. Johnson dated May 20, 2002, Commission staff requested that the wording on the proposed new signs be "Public Coastal Access Parking Available in the Garage, See Valet for Entry." The letter also urged Mr. Johnson to monitor the situation to ensure that all terms of the Permit are complied with, that the required public parking is clearly signed and available, and that the public does not encounter further problems. The letter further stated that failure to comply with the terms and conditions of the Permit would result in further enforcement action, including the issuance of a cease and desist order and possible imposition of monetary penalties.

In a subsequent letter to Mr. Johnson dated August 7, 2002, Commission staff reiterated the measures that the Ritz Carlton had agreed would take place to ensure compliance with the Permit:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.
2. Change the existing policy of having the Greeters ask visitors who wish to use the public access facilities at the Ritz Carlton for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.
3. Ensure that hotel staff greeting prospective visitors to the Ritz Carlton at the Greeter's Station provide complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the Ritz Carlton garage, and will not direct people to the 15-space, County parking lot located off-site near the trailhead.



4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it and there is no valet present.
5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz Carlton and not occupied by other cars.

In a letter dated August 29, 2002, Mr. Johnson addressed all the proposed changes, and indicated that everything in Ms. Ginsberg's letter dated August 7, 2002, had been implemented effective immediately.

Despite all the attempts by Commission staff to identify and address these issues, and the numerous assurances we have been given that the Ritz Carlton staff is dedicated to providing access to the public and to complying with the Permit, we have continued to receive complaints about the inability by visitors to utilize the public access and parking amenities required by the Permit.

For example, in March, 2003, we had a complaint by a member of the public, who stated that he had visited the Ritz Carlton and asked the greeter at the entry gate how he would go about using the coastal trail to look at the beach. The greeter told him that he should turn around and drive back to the public parking lot on Miramontes Drive. The visitor told the greeter that he thought he could park at the Ritz Carlton and just walk along the bluff and look at the view. He was then told that he could look at the view but could not go into the hotel or get to the beach, and that he must return his "Coastal Trail Parking Pass" when he left (repeated twice). He reports that she motioned him on, without explaining where he was to go. He drove to the parking garage, but the gates were down and locked, preventing entry. He drove around looking for a way into the parking garage, and finally pulled up to the front door of the hotel, explaining to the valet that he wanted to park and walk on the coastal trail. The valet checked with someone else, who told the first valet to just park the visitor's vehicle and "comp" him. After his visit, when he wanted to leave, he had to wait about ten minutes to get his car back, because the valets were very busy. There was no greeter at the station when he left so he was unable to return the pass as instructed.

Around the same time, another visitor reported that there was no greeter at the booth, and that when she drove up to the entrance and spoke to a valet, she was directed to park on the roof of the parking structure, and it was unclear how to get to the public access trail from the roof.

On August 3, 2003, a Commission staff member was instructed by the greeter to use the off-site County parking lot when she told him she wanted to access the coastal trail. The greeter made no mention of the on-site parking facilities. The off-site lot was full and no parking was available.

On August 22, 2003, we received another complaint from a visitor who was sent back to the off-site County parking lot when he asked the greeter where to park in order to access the beach trail. The visitor then called a staff member at the Commission and was told to try again to access on-site parking. The visitor once again approached the greeter's station and was again told to go to the off-site County parking lot. After some questioning, the greeter said that he could issue a pass to the visitor. The visitor was instructed to take the pass to the valet and he would then be let into the garage. After a bit of confusion, trying to find the valet, then the garage, the visitor finally found the on-site parking.

On September 5, 2003, a visitor was given a parking pass, and was told to look for a valet to gain access to the garage. The visitor drove around searching for the valet for three minutes. The visitor did not find a valet, so she drove to the back of the garage. There was no valet. After some time, the visitor talked to a Ritz Carlton employee. When the employee was told that the visitor wished to park and walk on the trail, the visitor was told that the lot was full because the hotel was overbooked. The employee offered to park the car, but the visitor did not want to leave her keys. The employee said the visitor could park at the Tennis and Swim Club, so she drove to the club lot. There were many open spaces, but they were all marked for Club members only. The visitor then left the premises.

On September 22, 2003, the Commission received another complaint. On Labor Day weekend a visitor approached the greeter's station and asked to use the public parking facilities. She was told to use the County public lot on Miramontes Drive. When pressed, the greeter phoned the valet. The valet said there was a space available in the garage, and the visitor was issued a parking pass. The valet met the visitor at the garage entrance, escorted her inside the garage, and directed her into a parking space. None of the other cars in the public spaces had access passes affixed to their rear view mirrors, but all the public spaces were full. There was a valet in the garage moving a car out of a public space, presumably keeping at least one space available for public use. It appeared that the parking spaces reserved for public use were being used for valet parking for hotel guests.

In summary, there is a continuing failure by the Ritz Carlton to implement the public access provisions of the Permit, despite numerous attempts by Coastal Commission enforcement staff to informally resolve the situation, and numerous public efforts to gain entry to the required public access parking. Such violations of the conditions of a permit are violations of the Coastal Act, and because our efforts to informally resolve this situation have been unsuccessful, we now find it necessary to commence formal enforcement proceedings against the Ritz Carlton for violating CDP No. 3-91-71/1-95-47.

#### New unpermitted activity

Commission staff has received additional complaints of activity conducted by the Ritz Carlton in violation of the Permit. We are in receipt of a letter dated October 21, 2003 to the Ritz Carlton from Jack Liebster, Planning Director for the City of Half Moon Bay (copy enclosed). In that letter, Mr. Liebster indicates that the Ritz Carlton has been parking cars on its lawns, has been utilizing helicopters to transport guests to and from the Ritz Carlton and has

been erecting a large tent for hotel use. As you should already be aware, all "development" activity, as that term is broadly defined in Section 30106 of the Coastal Act, requires a coastal development permit. Any such development activity without necessary permits is also a violation of the Coastal Act. We understand from the City of Half Moon Bay that the helicopter use was temporary and you have committed to them that such activity will not reoccur. If this is the case, please confirm this to the Commission along with your completed Statement of Defense form. With respect to the parking of cars on the lawns and the erection of a tent, the Permit does not appear to authorize these activities. Please provide assurance that these activities have ceased, if they have, so that we can avoid further enforcement action if possible.

### **Steps in the Cease and Desist Order Process**

Pursuant to Coastal Act Section 30810, the Commission has the authority to issue an Order directing any person to cease and desist if the Commission, after a public hearing, determines that such person has engaged in "any activity that is inconsistent with any permit previously issued by the Commission, or that is not authorized in a coastal development permit." Additionally, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act.

An order issued pursuant to Section 30810 will require that the Ritz Carlton take immediate steps to ensure compliance with the terms and conditions of the Permit concerning public access and public parking and cease and desist from any non-compliance with your permit and the associated conditions.

Please be advised that if the Commission issues a Cease and Desist Order, Section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order for each day in which the violation persists. The penalty for intentionally or negligently violating a cease and desist order can be as much as \$6,000 per day for as long as the violation persists. I also note that Sections 30820 and 30823 of the Coastal Act provide for monetary penalties for violations of permits issued by the Commission.

**At this time, the Commission is tentatively planning to hold a hearing on the issuance of a Cease and Desist Order in this matter at the Commission meeting that is scheduled for the week of December 9, 2003 in San Francisco, California.**

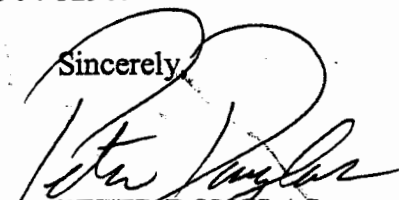
The Commission may issue a *unilateral* Cease and Desist Order that requires actions to remedy the Permit violations at the Ritz Carlton. In addition, the Commission may also seek to impose monetary penalties for the Permit violations that have occurred. If the Commission issues a unilateral Cease and Desist Order to obtain compliance with the Permit, this matter may also be referred to the Attorney General's Office for filing of litigation against the Ritz Carlton to seek civil penalties for past violations. Alternatively, the Commission staff is willing to discuss a negotiated Cease and Desist Order that the Commission would issue with the agreement and consent of the Ritz Carlton. A "consent" Cease and Desist Order is similar to a settlement agreement and would require the Ritz Carlton to agree to its issuance by the Commission prior to

the public hearing. A Consent Order would provide you with an opportunity to have input into the process and timing of the implementation of the remediation plan and would allow you to negotiate a monetary settlement amount with Commission staff.

In accordance with the California Code of Regulations, Title 14, Section 13181(a), you have the opportunity to respond to the staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. **This office must receive the completed Statement of Defense form no later than November 12, 2003.** If you have questions concerning the filing of the Statement of Defense form, please contact Nancy Cave at (415) 904-5290. The filing of the Statement of Defense form is unnecessary if we have agreed on the terms of a Consent Order to resolve this matter. If such agreement were reached, you would be required to stipulate to the facts of the case. You would also need to sign a Waiver of Defenses form indicating your intent to pursue resolution via a Consent Order. Regardless of which option you choose, Commission staff intends to schedule a public hearing on the cease and desist order at the Commission meeting scheduled for December 2003 in San Francisco.

If you have any questions regarding this letter or would like to discuss a Consent Cease and Desist Order, please contact Nancy Cave at 415-904-5290.

Sincerely,



PETER DOUGLAS  
Executive Director

Encl.: City of Half Moon Bay letter dated October 21, 2003  
Statement of Defense form

cc (w/out enc.): Lisa Haage, Chief of Enforcement  
Linda Locklin, Coastal Access Program Manager  
Chris Kern, North Central District Supervisor  
Nancy Cave, Northern California Enforcement Supervisor  
Jo Ginsberg, North Central Coast District Enforcement Officer  
Jack Liebster, Planning Director, City of Half Moon Bay  
Jeff Mongan, The Athens Group

Exhibit #12

CCC-03-CD-014

Exhibit 3

CCC-03-CD-14-A &

CCC-19-AP-01

Page 8 of 8

Page 62 of 86

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



SENT BY FAX AND BY CERTIFIED MAIL  
No. 7002 2030 0002 6423 2102

February 26, 2004

Jeffrey J. Mongan, Senior Vice-President  
The Athens Group  
2425 East Camelback Road, Suite 1025  
Phoenix, Arizona 85016

The Ritz Carlton, Half Moon Bay  
Ritz Carlton Hotel Company, LLC  
One Miramontes Point Road  
Half Moon Bay, CA 94109

RE: Coastal Act Violation No. V-2-01-11

Dear Mr. Mongan:

This letter shall serve to notify you, as the representative for the Ritz Carlton Hotel Company, LLC, of the Commission enforcement staff's decision to notice a unilateral hearing on issuance of a Cease and Desist Order to the Ritz Carlton, Half Moon Bay and Ritz Carlton Hotel Company, LLC (hereinafter "Ritz Carlton") for its April Commission meeting. This decision also requires us to re-impose a precise deadline for your submittal of a completed Statement of Defense form. We have reached this decision after failing to reach agreement with the Ritz Carlton concerning terms for a Consent Order proceeding.

As you know, on October 23, 2003, Peter Douglas, Executive Director for the Commission, issued to the Ritz Carlton a Notice of Intent to Commence Cease and Desist Order proceedings to address continuing noncompliance with the terms and conditions of Coastal Development Permit No. 3-91-71/1-95-47 ("the Permit"). A blank Statement of Defense form was included with his letter. In accordance with the California Code of Regulations, Title 14, Section 13181(a), you were given the opportunity to respond to the Commission staff allegations included in the 23 October 2003 letter, by completing and submitting the Statement of Defense form no later than November 12, 2003.

At your request, we extended that deadline without a new deadline date, to determine if the Commission and the Ritz Carlton could agree on terms for a Consent Cease and Desist Order. We have not been able to reach such an agreement. Therefore, we will seek issuance of a cease and desist order at the April Commission meeting, and we must receive the completed Statement of Defense form no later than March 12, 2004.

Exhibit #13 Exhibit 3  
CCC-03-6D-14A &  
CCC-19-AP-01  
Page 699 63 of 86

As you know, this order proceeding has been necessitated by the Ritz Carlton's repeated failure to provide 25 public parking spaces on hotel premises for the public, as required by the Permit. Our 23 October 2003 Notice of Intent letter documents all the Commission's allegations against the Ritz Carlton. I include a copy of that letter for your convenience.

In discussing terms for a possible order, you asked us to consider a proposed relocation of the 25 existing parking spaces from inside the Ritz Carlton's parking garage to another location on the Ritz Carlton premises. You submitted conceptual drawings and indicated in discussion with Commission staff that you wished to relocate the 25 spaces adjacent to the existing Ocean Colony Homeowners Association ("Ocean Colony Association") Clubhouse. You indicated that existing spaces at the proposed alternative location authorized for Ocean Colony Homeowners Association club members would be relocated in reconfigured parking for the Clubhouse, but did not specifically specify how this would occur.

We have discussed your proposal with Commission staff for the North Central Coast District Office, with City officials for Half Moon Bay, and we have visited the site. We cannot agree that your proposed alternative location is an acceptable location. We believe this proposal is undesirable for several reasons. First, the proposal moves the public parking farther away from the greeter's station and farther into the Ritz Carlton premises adjacent to both Ocean Colony Association facilities and Ritz Carlton facilities. It is our understanding that Ritz Carlton guests currently use the Ocean Colony Association pool and other facilities. We can predict conflict with Association users, hotel guests, and the public desiring to park and walk the public accessways. Further, it is our understanding that the Ritz Carlton is planning to submit a coastal development permit request to the City of Half Moon Bay to place a large events tent adjacent to the proposed relocated parking area. This tent would be erected, as events require, on a more-or-less permanent basis. Again, the placement of this tent would present significant potential conflict among user groups, adding yet another user-group to the mix (event attendees) and does not lead us to believe that the public would be able to park easily at the spot proposed for relocation of the 25 spaces.

We still believe there may be other, more desirable alternative locations that the Ritz Carlton could propose for relocation of the 25 public parking spaces. For example, we understand that you are currently in discussions with the City regarding overflow parking needs and placing cars along one side of Miramontes Road with a valet service. Perhaps the hotel greeter station area could be relocated and the entire entry area reconfigured so that a well identified public parking lot could be placed immediately before the greeter station or just past the greeter station within the hotel premises. If the area was adjacent to the station, it appears that your employees could easily control any perceived conflict without necessitating continued site inspections by Commission staff to ensure compliance with the Permit. Further, it appears that the public desiring to park and utilize public trails could easily do so without conflict with hotel guests or Ocean

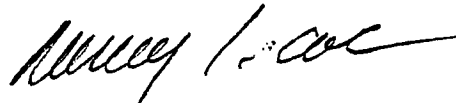
Jeffrey J. Mongan  
Ritz Carlton Cease & Desist Order  
February 26, 2004

Page -3-

Colony Association members. Any relocation would be subject to applicable City permit requirements and would require amending the Permit issued by the Commission.

If you have any questions concerning this letter, please do not hesitate to contact me at 415-904-5290.

Sincerely,



NANCY L. CAVE  
Northern California Supervisor  
Enforcement Program  
California Coastal Commission

Enclosure

cc: Lisa Haage  
Chris Kern  
Jo Ginsberg  
Jack Liebster, Planning Director, City of Half Moon Bay



March 9, 2004

Ms. Nancy Cave  
Northern California Supervisor  
Enforcement Program  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**Re: Notice of Intent to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz-Carlton); Non-Compliance with the terms and conditions of CDP No. 3-91-71/1-95-47; Property Address: One Miramontes Point Road, Half Moon Bay, San Mateo County; APN # 066-092-780 and 066-092-770**

Dear Ms. Cave:

Thank you for the meetings we have held with members of the Coastal Commission staff over the past several months. Since our first meeting back in November, we have worked diligently to present various alternatives to improve the coastal access parking program for the Ritz-Carlton, Half Moon Bay. I think our meeting last Thursday with the general manager of the hotel, Paul Ratchford, in attendance was particularly helpful in that it gave the hotel management an opportunity to address some of the problems that occurred last year during the hotel's management transition and reaffirm their commitment to providing an exceptional coastal access program.

We are disappointed that the Coastal Commission staff does not agree with our proposal to build alternative coastal access parking spaces on our property that would eliminate the need to use the valet parking garage. Nevertheless staff and we have agreed to continue to work toward an amicable resolution of this matter so as to avoid a contested hearing. However, you have imposed a March 15, 2004 deadline to submit our Statement of Defense. Therefore, I am submitting this letter with our position statement.

Let me first say that we acknowledge there have been some occasions since the opening of the resort almost three years ago when the on-site public access program has not functioned as we planned. As you know our On-site/Ocean Colony Public Access Program (see Special Condition No. 2 of CDP No. 3-91-71/1-95-47) has two parking

2425 East Camelback Road, Suite 1025  
Phoenix, Arizona 85016  
602/648-6520 • FAX 602/648-6530

Exhibit #14

CCC-03-CD-014

Page 1 of 21

Exhibit 3

CCC-03-CD-14-A &

CCC-19-AP-01

Page 66 of 86

components; a 15-space parking area along Miramontes Point Road proximate to Canada Verde Beach and a 25 space parking area on the second level of the hotel's parking garage. Based on our periodic observations and feedback from the Ritz-Carlton staff, the 15-space parking area along Miramontes Point Road has been very popular with the public. It is used frequently, primarily because it is the closest access point to the beach. However, since opening of the hotel in April 2001, we have interacted on a few occasions with the Coastal Commission staff and with Ritz-Carlton management to address complaints to Coastal Commission staff from members of the public about access to the parking spaces in the hotel parking garage. Quite simply, the program as currently implemented is subject to human error since the public must interact with both the greeter station attendant at the end of Miramontes Point Road (which had not been operated continuously until recently) and the hotel valet parking staff. Ritz-Carlton's staff is trained to understand the coastal access parking requirements and how to provide access to the coastal access parking facilities. They understand the location of both the Canada Verde beach access parking and the coastal access parking in the hotel's valet parking structure. Nevertheless depending on how a question is posed by the public relative to the location of parking facilities, the system as currently designed is subject to human error. As an example, if a member of the public is directed to the coastal access parking in the parking garage it is possible that a valet attendant may not get to the garage entry point in time thus causing confusion on the part of the driver who is trying to gain entry to the garage. As a result, and as we discussed at our various meetings since November of last year, our preference is to relocate the coastal access parking from the valet parking garage to the alternative location along the coastal trail as shown in the attached exhibit.

Before focusing on alternatives for improving the current system, let me first state that I believe the coastal access program for the hotel has been very successful. In conducting our internal investigation of the allegations in the Notice you sent, it is evident that thousands of members of the public have visited the hotel and enjoyed the coastal access improvements without complaint. Most people come to enjoy the visitor serving facilities and hospitality provided by the Ritz-Carlton either as an overnight guest, restaurant patron or simply by parking and walking around the hotel and the grounds. Thousands of people have used the new coastal trail improvements and the beach access parking at the Canada Verde beach access. Many people come to the greeter station at the hotel asking the question, "Where is the best place to park to get to the beach?" The Canada Verde beach access parking (the 15-space parking lot along Miramontes Point Road) has generally fulfilled this function by providing parking a short walk from the stairs to the beach. Some people come to the hotel with the expectation that there is a way to get to the beach on the hotel property. As you know, this is not the case as there is no path to the beach on the Ritz-Carlton property. Rather, the only stairs to the beach are to the south of the Ritz-Carlton (at Canada Verde beach), and accessed from the coastal trail along the top of the bluff along the Half Moon Bay Golf Links Ocean Course. Thus we believe some of the complaints mentioned in your letter are based on interpretations of members of the public who may have asked this question and rather than being directed to parking in the garage (which is a much longer walk) they were directed to the best parking area to access the beach (which is not a "County Lot" as referred to in your letter but rather part of our On-Site/Ocean Colony Public Access

Exhibit 3

Exhibit #14  
CCC-03-CD-14-A &  
CCC-03-CD-014 CCC-19-AP-01

Program). Some members of the public inquire about access to the coastal trail. In this case members of the public are directed to the coastal access parking spaces on the Ritz-Carlton property. In any event, the greeter station attendants are trained to direct members of the public to the hotel's coastal access parking spaces at the hotel property. This is an important point to us in that the hotels "On-Site/Ocean Colony Public Access program" as set forth in the approved Coastal Development Permit is more than just the 25 coastal access spaces at the hotel.

Also, based on previous interface with Coastal Commission enforcement staff and the Ritz-Carlton management during 2001 and 2002, Ritz-Carlton has taken steps to enhance the coastal access parking in the parking garage (i.e., additional signage, enhanced staff training, purchase of radios for the valet interface, etc.). Ritz-Carlton also maintains logs of the # of people/vehicles that come to the greeter station and request access to the coastal access parking spaces. From March 2003 through October 2003 our experience with such requests to park in the coastal access parking spaces in the valet garage is as follows:

<u>Month</u>	<u># of Vehicles</u>	<u>Max. Vehicles Per Day</u>	<u># of Days w/ No requests</u>
March 2003	57 vehicles	13	15 days
April 2003	30 vehicles	4	17 days
May 2003	57 vehicles	5	8 days
June 2003	58 vehicles	6	10 days
July 2003	40 vehicles	4	17 days
August 2003	43 vehicles	6	13 days
Sept. 2003	39 vehicles	8	17 days
Oct. 2003	33 vehicles	4	15 days

A review of the vehicle logs maintained by Ritz-Carlton personnel indicates that the days with the most requests for coastal access parking (i.e. Max. Vehicles Per Day) occur on weekends and holidays; most weekdays have no requests for coastal access parking.

In addition to providing the various on-site coastal access parking facilities, The Ritz-Carlton, Half Moon Bay has significantly improved coastal access facilities at the southern end of Half Moon Bay by providing new bike lanes along Miramontes Point Road, extension of the coastal trail through the Ritz-Carlton property, stairs to Canada Verde beach, a new public viewpoint at Miramontes Point Road, public access restrooms, a \$250,000 cash payment to enhance offsite coastal access improvements and a \$350,000 cash payment to provide additional low-cost recreational facilities in the City of Half Moon Bay. From some of our early meetings to review the allegations in the Notice of Cease and Desist Order it became apparent to us that the Coastal Commission staff was not aware that we participated financially in some of the coastal access improvements that were built as part of the South Wavecrest Golf Course project. This is due to the fact that the Coastal Development Permit approval for the golf course came after the 1991 CDP approval for the Half Moon Bay Resort project. Some of the conditions related to the Hotel project (as an example, the parking lot along Miramontes

Point Road and the stairs to the beach) were also imposed on the golf course project. Since the golf course project was constructed before the hotel project, the golf course constructed the improvements and then received reimbursement from the hotel owner/developer when the hotel project moved forward.

At our meetings and discussions from November 2003 through February 26, 2004, we focused on alternative locations to relocate the 25 parking spaces from the hotel parking structure. As we discussed, there are three alternatives: (i) provide the 25 spaces at the end of Redondo Beach Road, just north of Ocean Colony; (ii) provide the 25 spaces at an alternative location on the Ritz-Carlton property; or (iii) add 3-5 spaces to the existing Canada Verde Beach parking area with the balance of the 25 spaces provided on the Ritz-Carlton property. We have verified with our design consultant that all of these options are viable from a construction standpoint. However, only the second option, providing the additional spaces on the Ritz-Carlton property can be accomplished without approval of other landowners (i.e. the City of Half Moon Bay with respect to the Redondo Beach Road location and Ocean Colony Partners with respect to the Canada Verde Beach access parking location along Miramontes Point Road). For all of the reasons we elaborated on at our meeting last week, our preference is to relocate the parking spaces on the Ritz-Carlton property as shown on the attached exhibit. Furthermore we would like to proceed with this work as soon as possible so these spaces can be available to the public by summer.

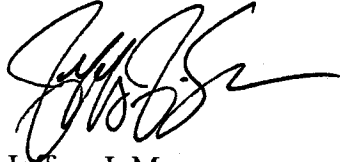
In regard to your request for monetary damages related to the alleged Coastal Act violation, we disagree that a violation of the Coastal Act has occurred. We are prepared to meet with staff and focus our energies on moving the 25 coastal access parking stalls in the hotel garage to an alternative location that would not involve interface with the hotel valet parking staff. The relocation of the coastal access parking will involve substantial expense to us. If Coastal staff will not agree to the relocation of the parking spaces, we are prepared to install an alternative valet parking gate with a mechanism that will accept tokens (or similar) which would be distributed by the greeter station attendant to members of the public requesting coastal access parking. This would allow members of the public to access the parking garage and utilize the parking spaces without interface with the valet parking attendants.

Our Statement of Defense is attached. It is our sincere desire that we can avoid the need for a contested case hearing and instead enter into an agreement with the Coastal Commission to relocate the coastal access parking spaces. As we have reviewed with you previously, the Coastal Development Permit for the property provides for Executive Director approval of the location of the parking spaces on the property. Thus a relocation of the coastal access parking spaces on the property should not require the time and expense of presenting this for consideration at a Coastal Commission hearing.

I look forward to hearing from you regarding the next step to reach a mutually satisfactory resolution of this matter.

Sincerely,

VESTAR-ATHENS/YCP II HALF MOON BAY, LLC



Jeffrey J. Mongan  
Owner's Representative

Encl.

Cc Paul Ratchford – Ritz-Carlton, Half Moon Bay  
Nancy Lucast  
Michael Burke, esq.  
Kim Richards  
Jill Johnson

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



## SENT BY CERTIFIED MAIL

No. 7002 0460 0003 8376 4457

October 23, 2003

Paul Ratchford  
Executive Assistant Manager  
The Ritz Carlton, Half Moon Bay  
Ritz Carlton Hotel Company, LLC  
One Miramontes Point Road  
Half Moon Bay, CA 94019

RE: Notice of Intent to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz Carlton): Non-compliance with the terms and conditions of CDP No. 3-91-71/1-95-47;

Property Address: One Miramontes Point Road, Half Moon Bay, San Mateo County; APNs 066-092-780 and 066-092-770

Dear Mr. Ratchford:

/ This letter is to notify you of my intent to commence proceedings for the issuance by the California Coastal Commission of a Cease and Desist Order to the Ritz Carlton, Half Moon Bay and Ritz Carlton Hotel Company, LLC (hereinafter "Ritz Carlton") to address continuing non-compliance with the terms and conditions of Coastal Development Permit No. 3-91-71/1-95-47 ("the Permit")<sup>1</sup>.

2 The Permit includes a number of special conditions requiring public access and parking improvements at the Ritz Carlton facilities at One Miramontes Point Road, Half Moon Bay. Special Condition No. 2 of the Permit requires (a) a 25-spot public parking area on hotel premises that is open during daylight hours; (b) a bluff top scenic overlook for hotel guests and visiting public at the seaward extremity of the coastal bluff at Miramontes Point; (c) a paved sidewalk or pedestrian access path for public use between the hotel's public parking area and bluff top overlook, connecting to the bikeway leading to Redondo Beach; (d) an off-road bikeway with a parallel unpaved pedestrian path connecting the extended Miramontes Point Road, bluff top overlook area, and southern end of Olive Avenue; (e) bike lanes connecting the

<sup>1</sup> CDP 3-91-71 was renamed and subsequently renumbered as CDP 1-95-47.

hotel site to Highway One; (f) 15 parking spaces or pullouts along the new portion of Miramontes Point Road suitable for scenic viewing or beach visits; (g) a pedestrian access path parallel to the drainage swale dividing the 18<sup>th</sup> fairway of the Ocean Colony golf course, connecting the Miramontes Point parking area to the beach via the adjoining segment of the Coastside Bikeway; (h) signage clearly marking for public use all access routes, public parking, Miramontes Point overlook, and public restrooms; and (i) an enclosed public restroom facility.

3 Special Condition No. 4 of the Permit requires the above-identified access related amenities required in Special Condition No. 2 to be incorporated into revised project plans that are approved by Commission staff. In November of 1998, Jeffrey Mongan of The Athens Group submitted final revised access plans to Commission staff in compliance with this requirement. The Executive Director approved these plans. The approved plans show a total of 25 public parking spaces: twenty-three (23) standard stalls located on the second level of the structured parking; and two (2) handicap public access parking stalls located near the hotel greeting station.

4 For nearly two years, Commission staff has received ongoing complaints from members of the public and from staff who have experienced difficulty utilizing the required coastal access and public parking improvements on the Ritz Carlton property. Such failure to provide public access in conformance with the approved plans constitutes a violation of the requirements of the Permit, and therefore the Coastal Act. Since we first contacted the Ritz Carlton regarding these complaints in June of 2001, Commission staff has repeatedly received assurances from Ritz-Carlton management that these problems have been rectified; yet we continue to receive complaints, indicating that the Ritz Carlton has failed to adequately comply with the Permit's conditions. Since all other measures have failed, in order to ensure compliance with the conditions of the Permit, I am therefore recommending that the Commission issue a Cease and Desist Order to ensure compliance with the terms and conditions of the Permit.

#### History of the Violation Investigation

5 Commission staff first notified Richard Johnson, then executive assistant manager, of the violation on the Ritz Carlton property in a letter dated June 26, 2001, from the North Central Coast District Enforcement Officer Jo Ginsberg. Ms. Ginsberg informed Mr. Johnson that Commission staff had received numerous complaints concerning lack of public access and parking at the Ritz Carlton site, indicating that people had complained that: (1) there are no longer any signs designating public parking; (2) there are no handicap spaces as were designated and approved on the project plans; (3) the entrances to all three levels of the parking garage are blocked by a sign saying "valet parking only"; (4) there are only nine garage spaces marked for public use rather than the required 25; and (5) Ritz Carlton staff require visitors to pay as much as \$10 to park, and/or tell them a) that there is no public parking, b) that the public parking area has been moved because the garage spaces aren't working out for the hotel, and/or c) to park in the delivery area or "where the caddies park."

6 In a letter to Ms. Ginsberg dated July 12, 2001, John Berndt, General Manager of the Ritz Carlton, stated that additional training to the guest service employees had been provided, and that he was dedicated to fulfilling the Ritz Carlton's coastal requirements.

Exhibit 3  
CCC-03-CD-14-A &  
CCC-03-CD-CCC-19-AP-01

Page 72 of 86



7 Following a meeting with Commission enforcement staff, Mr. Johnson wrote a letter dated August 29, 2001 to Ms. Ginsberg stating that he would do everything in his power to comply with what he referred to as the "Coastal Access Agreement." We assume Mr. Johnson was referring to the approved access plans, required by and approved as part of the Ritz Carlton's coastal development permit.

8 In subsequent correspondence dated February 11, 2002, Commission staff indicated that another complaint had been lodged concerning continuing problems with the public access amenities at the Ritz Carlton, with the unfamiliarity of Ritz Carlton staff with the public access amenities and the proper procedures for allowing visitors to use these amenities. Commission staff noted that the signs at the parking structure that say "Valet Parking Only" discourage visitors from using the public access amenities at the Ritz Carlton, and that Ritz Carlton staff continues to fail to direct visitors to the 25 designated public access parking spaces in the parking structure and on the Ritz Carlton property that the Permit requires.

9 A letter from Jeffrey Mongan, Senior Vice President, dated March 25, 2002 assured Commission staff that "the Ritz Carlton management team is doing an admirable job of accommodating the visiting public and maintaining compliance with the requirements for coastal access parking."

10 During a visit to the Ritz Carlton on April 9, 2002, Commission staff experienced problems accessing the public parking spaces on the Ritz Carlton property. The greeting station was unmanned, there was no sign at the greeting station directing members of the public to the on-site Ritz Carlton public access parking, there was a misleading "Coastal Access Parking" sign that pointed to nowhere, and the parking structure was locked, with gates down, and impassable. Since there was no staff present to ask about parking, they drove to the front of the hotel and asked an attendant where the public parking was for visitors who wanted to use the access trail. The attendant tried to direct them off the hotel grounds to the 15-space County-run parking area along Miramontes Point Road. When Commission staff persisted in their request for on-site parking, the attendant told them he had worked at the Ritz Carlton since it had opened, he was unaware of any on-site parking for public visitors, and he continued to direct them off the site. When Commission staff pointed out that they knew there was public parking in the parking structure, the attendant told them this was not so. These experiences were detailed in Ms. Ginsberg's letter to Mr. Mongan dated April 17, 2002.

11 In her April 17, 2002 letter, Ms. Ginsberg also indicated that she had received similar complaints from members of the public who telephoned to say that there is no hotel staff at the greeting station, that the signs are uninformative, and that there is no access to the parking structure. The letter further stated that it seemed clear that the Ritz Carlton's system of providing the public with coastal access parking is not working and is unacceptable. Commission staff requested that a sign be posted at the greeting station stating something to the effect of "Public Coastal Access Parking in the Garage, See Valet for Entry." Commission staff also suggested that a similar sign be posted on the garage itself.



12 In a letter dated May 1, 2002, Jeffrey Mongan stated that to avoid future complaints, the Ritz Carlton management team was, "effective immediately", implementing several changes to the current parking system, including: (1) staffing the greeter station from sun up to sun down on Friday, Saturday, and Sunday as well as holidays or days where the hotel occupancy was projected to be over 50%; (2) placing two additional signs to direct visitors to the coastal access parking facility, one at the greeter station and one at the entrance to the parking structure; (3) recording and reviewing all requests for coastal access parking including license plate numbers; and (4) providing additional education and training to all hotel employees on the proper responses to coastal access parking requests.

13 In a follow-up letter dated May 15, 2002, Mr. Johnson indicated that all the proposed changes had been successfully implemented and that the management team was "committed to enhancing the Coastal Access experience at the Ritz Carlton, Half Moon Bay."

14 In a letter to Mr. Johnson dated May 20, 2002, Commission staff requested that the wording on the proposed new signs be "Public Coastal Access Parking Available in the Garage, See Valet for Entry." The letter also urged Mr. Johnson to monitor the situation to ensure that all terms of the Permit are complied with, that the required public parking is clearly signed and available, and that the public does not encounter further problems. The letter further stated that failure to comply with the terms and conditions of the Permit would result in further enforcement action, including the issuance of a cease and desist order and possible imposition of monetary penalties.

15 In a subsequent letter to Mr. Johnson dated August 7, 2002, Commission staff reiterated the measures that the Ritz Carlton had agreed would take place to ensure compliance with the Permit:

1. Leave in place on the Greeter's Station, even when the Greeter is in the booth, the informative sign that states, "Public Coastal Access Parking Available in the Garage, See Valet for Entry." This sign should be clearly visible to cars stopped at the booth. This will make clearer to visitors that public parking is available on-site.
2. Change the existing policy of having the Greeters ask visitors who wish to use the public access facilities at the Ritz Carlton for their names, and instead note the license plate number of the car, as visitors have found it intimidating to be asked for their names.
3. Ensure that hotel staff greeting prospective visitors to the Ritz Carlton at the Greeter's Station provide complete and accurate information about the existing public access facilities on-site. If staff is asked about public parking, beach parking, public trails, etc., staff will properly and completely inform the visitor as to the availability and location of the 25 public parking spaces in the Ritz Carlton garage, and will not direct people to the 15-space, County parking lot located off-site near the trailhead.

4. Supply the Greeter's Station staff with a two-way radio, so that he/she can radio ahead to the valets to inform the valets that a coastal access visitor is heading toward the garage, thus enabling a valet to meet the visitor at the garage and buzz in the visitor. This will avoid confusion when visitors drive up to the garage but cannot enter it and there is no valet present.
5. Ensure that the 25 designated Coastal Access parking spots in the garage are reserved for visitors using the public access amenities at the Ritz Carlton and not occupied by other cars.

16 In a letter dated August 29, 2002, Mr. Johnson addressed all the proposed changes, and indicated that everything in Ms. Ginsberg's letter dated August 7, 2002, had been implemented effective immediately.

17 Despite all the attempts by Commission staff to identify and address these issues, and the numerous assurances we have been given that the Ritz Carlton staff is dedicated to providing access to the public and to complying with the Permit, we have continued to receive complaints about the inability by visitors to utilize the public access and parking amenities required by the Permit.

18 For example, in March, 2003, we had a complaint by a member of the public, who stated that he had visited the Ritz Carlton and asked the greeter at the entry gate how he would go about using the coastal trail to look at the beach. The greeter told him that he should turn around and drive back to the public parking lot on Miramontes Drive. The visitor told the greeter that he thought he could park at the Ritz Carlton and just walk along the bluff and look at the view. He was then told that he could look at the view but could not go into the hotel or get to the beach, and that he must return his "Coastal Trail Parking Pass" when he left (repeated twice). He reports that she motioned him on, without explaining where he was to go. He drove to the parking garage, but the gates were down and locked, preventing entry. He drove around looking for a way into the parking garage, and finally pulled up to the front door of the hotel, explaining to the valet that he wanted to park and walk on the coastal trail. The valet checked with someone else, who told the first valet to just park the visitor's vehicle and "comp" him. After his visit, when he wanted to leave, he had to wait about ten minutes to get his car back, because the valets were very busy. There was no greeter at the station when he left so he was unable to return the pass as instructed.

19 Around the same time, another visitor reported that there was no greeter at the booth, and that when she drove up to the entrance and spoke to a valet, she was directed to park on the roof of the parking structure, and it was unclear how to get to the public access trail from the roof.

20 On August 3, 2003, a Commission staff member was instructed by the greeter to use the off-site County parking lot when she told him she wanted to access the coastal trail. The greeter made no mention of the on-site parking facilities. The off-site lot was full and no parking was available.

21 On August 22, 2003, we received another complaint from a visitor who was sent back to the off-site County parking lot when he asked the greeter where to park in order to access the beach trail. The visitor then called a staff member at the Commission and was told to try again to access on-site parking. The visitor once again approached the greeter's station and was again told to go to the off-site County parking lot. After some questioning, the greeter said that he could issue a pass to the visitor. The visitor was instructed to take the pass to the valet and he would then be let into the garage. After a bit of confusion, trying to find the valet, then the garage, the visitor finally found the on-site parking.

22 On September 5, 2003, a visitor was given a parking pass, and was told to look for a valet to gain access to the garage. The visitor drove around searching for the valet for three minutes. The visitor did not find a valet, so she drove to the back of the garage. There was no valet. After some time, the visitor talked to a Ritz Carlton employee. When the employee was told that the visitor wished to park and walk on the trail, the visitor was told that the lot was full because the hotel was overbooked. The employee offered to park the car, but the visitor did not want to leave her keys. The employee said the visitor could park at the Tennis and Swim Club, so she drove to the club lot. There were many open spaces, but they were all marked for Club members only. The visitor then left the premises.

23 On September 22, 2003, the Commission received another complaint. On Labor Day weekend a visitor approached the greeter's station and asked to use the public parking facilities. She was told to use the County public lot on Miramontes Drive. When pressed, the greeter phoned the valet. The valet said there was a space available in the garage, and the visitor was issued a parking pass. The valet met the visitor at the garage entrance, escorted her inside the garage, and directed her into a parking space. None of the other cars in the public spaces had access passes affixed to their rear view mirrors, but all the public spaces were full. There was a valet in the garage moving a car out of a public space, presumably keeping at least one space available for public use. It appeared that the parking spaces reserved for public use were being used for valet parking for hotel guests.

24 In summary, there is a continuing failure by the Ritz Carlton to implement the public access provisions of the Permit, despite numerous attempts by Coastal Commission enforcement staff to informally resolve the situation, and numerous public efforts to gain entry to the required public access parking. Such violations of the conditions of a permit are violations of the Coastal Act, and because our efforts to informally resolve this situation have been unsuccessful, we now find it necessary to commence formal enforcement proceedings against the Ritz Carlton for violating CDP No. 3-91-71/1-95-47.

#### New unpermitted activity

25 Commission staff has received additional complaints of activity conducted by the Ritz Carlton in violation of the Permit. We are in receipt of a letter dated October 21, 2003 to the Ritz Carlton from Jack Liebster, Planning Director for the City of Half Moon Bay (copy enclosed). In that letter, Mr. Liebster indicates that the Ritz Carlton has been parking cars on its lawns, has been utilizing helicopters to transport guests to and from the Ritz Carlton, and has

been erecting a large tent for hotel use. As you should already be aware, all "development" activity, as that term is broadly defined in Section 30106 of the Coastal Act, requires a coastal development permit. Any such development activity without necessary permits is also a violation of the Coastal Act. We understand from the City of Half Moon Bay that the helicopter use was temporary and you have committed to them that such activity will not reoccur. If this is the case, please confirm this to the Commission along with your completed Statement of Defense form. With respect to the parking of cars on the lawns and the erection of a tent, the Permit does not appear to authorize these activities. Please provide assurance that these activities have ceased, if they have, so that we can avoid further enforcement action if possible.

### Steps in the Cease and Desist Order Process

Pursuant to Coastal Act Section 30810, the Commission has the authority to issue an Order directing any person to cease and desist if the Commission, after a public hearing, determines that such person has engaged in "any activity that is inconsistent with any permit previously issued by the Commission, or that is not authorized in a coastal development permit." Additionally, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act.

An order issued pursuant to Section 30810 will require that the Ritz Carlton take immediate steps to ensure compliance with the terms and conditions of the Permit concerning public access and public parking and cease and desist from any non-compliance with your permit and the associated conditions.

Please be advised that if the Commission issues a Cease and Desist Order, Section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order for each day in which the violation persists. The penalty for intentionally or negligently violating a cease and desist order can be as much as \$6,000 per day for as long as the violation persists. I also note that Sections 30820 and 30823 of the Coastal Act provide for monetary penalties for violations of permits issued by the Commission.

At this time, the Commission is tentatively planning to hold a hearing on the issuance of a Cease and Desist Order in this matter at the Commission meeting that is scheduled for the week of December 9, 2003 in San Francisco, California.

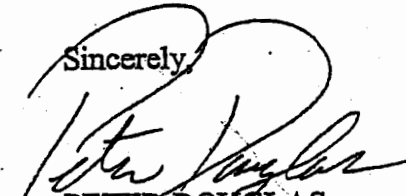
The Commission may issue a *unilateral* Cease and Desist Order that requires actions to remedy the Permit violations at the Ritz Carlton. In addition, the Commission may also seek to impose monetary penalties for the Permit violations that have occurred. If the Commission issues a unilateral Cease and Desist Order to obtain compliance with the Permit, this matter may also be referred to the Attorney General's Office for filing of litigation against the Ritz Carlton to seek civil penalties for past violations. Alternatively, the Commission staff is willing to discuss a negotiated Cease and Desist Order that the Commission would issue with the agreement and consent of the Ritz Carlton. A "consent" Cease and Desist Order is similar to a settlement agreement and would require the Ritz Carlton to agree to its issuance by the Commission prior to

the public hearing. A Consent Order would provide you with an opportunity to have input into the process and timing of the implementation of the remediation plan and would allow you to negotiate a monetary settlement amount with Commission staff.

In accordance with the California Code of Regulations, Title 14, Section 13181(a), you have the opportunity to respond to the staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. **This office must receive the completed Statement of Defense form no later than November 12, 2003.** If you have questions concerning the filing of the Statement of Defense form, please contact Nancy Cave at (415) 904-5290. The filing of the Statement of Defense form is unnecessary if we have agreed on the terms of a Consent Order to resolve this matter. If such agreement were reached, you would be required to stipulate to the facts of the case. You would also need to sign a Waiver of Defenses form indicating your intent to pursue resolution via a Consent Order. Regardless of which option you choose, Commission staff intends to schedule a public hearing on the cease and desist order at the Commission meeting scheduled for December 2003 in San Francisco.

If you have any questions regarding this letter or would like to discuss a Consent Cease and Desist Order, please contact Nancy Cave at 415-904-5290.

Sincerely,



PETER DOUGLAS  
Executive Director

Encl.: City of Half Moon Bay letter dated October 21, 2003  
Statement of Defense form

cc (w/out enc.): Lisa Haage, Chief of Enforcement  
Linda Locklin, Coastal Access Program Manager  
Chris Kern, North Central District Supervisor  
Nancy Cave, Northern California Enforcement Supervisor  
Jo Ginsberg, North Central Coast District Enforcement Officer  
Jack Liebster, Planning Director, City of Half Moon Bay  
Jeff Mongan, The Athens Group

Exhibit #14

CCC-03-CD-014

Page 13 of 21

Exhibit 3

CCC-03-CD-14-A &

CCC-19-AP-01

Page 78 of 86

Notice of Intent (NOI) to Commence Cease and Desist Order Proceedings for Coastal Act Violation No. V-2-01-11 (Ritz-Carlton): Non-Compliance with the terms and conditions of CDP No. 3-91-71/1-95-47

Property Address: One Miramontes Point Road, Half Moon Bay, San Mateo County; APNs 066-092-780 and 066-092-770

## **Statement of Defense**

### **I. General Background**

The following Statement is in response to allegations contained in the October 23, 2003 letter from Peter Douglas, Executive Director of the California Coastal Commission, to Paul Ratchford, General Manager of the Ritz-Carlton, Half Moon Bay ("NOI"). A copy of the NOI letter is attached with the paragraphs numbered for ease of reference. A copy of the Coastal Development Permit ("CDP") for the Property is also attached for reference.

From the opening of the Ritz-Carlton hotel in March 2001, the coastal access program implemented by the developer/owner has been extremely well received by members of the public as evidenced by the frequent users of the Coastal Trail, the Canada Verde Beach Parking Lot (15-space parking lot along Miramontes Point Road), the Miramontes Point Overlook, the stairs to Canada Verde Beach, new public restrooms, bike lanes along Miramontes Point Road and the bikeway through the Ritz-Carlton Property. These improvements were all constructed pursuant to Special Condition #2 of the CDP. Thousands of visitors have used these coastal access improvements since the opening of the hotel without patronizing the hotel, its restaurants or other services at all. Over 250,000 visitors have stayed at the Ritz-Carlton, Half Moon Bay since the opening despite a regional economic recession, the September 11, 2001 terrorist attacks, the SARS outbreak, and other external events that have had a severe negative impact on the national and international tourism industry.

In addition, the hotel developer/owner paid \$600,000 to the Coastal Commission for Offsite Public Access improvements (\$250,000) and Low Cost Recreation Facilities near Half Moon Bay (\$350,000). CDP Special Condition #3, Part II, and Special Condition #5.

One area of the coastal access program that has not functioned as well as originally contemplated by both the hotel developer/owner and Commission staff is the portion of the on-site coastal access parking program located in the hotel's Valet Parking Garage. By way of background, the hotel has two parking areas as part of its "On-site/Ocean Colony Public Access Program". There is a 15-space parking lot along Miramontes Point Road, located approximately 500 ft. before the hotel greeter station (the "Canada Verde Beach Parking Lot"). A second parking area containing 25 spaces is located on the second level of the hotel Valet Parking Garage. Both parking areas were completed

Exhibit 3

Exhibit #14 CCC-03-CD-14-A &  
CCC-03-CD-014 CCC-19-AP-01

Page 79 of 86

before the hotel opened and, of course, both still physically exist today. Accordingly, the owner/developer has not failed to provide any required public access facilities. Rather, based on the allegations in the NOI, the owner/developer appears to have experienced operational problems from time to time in providing convenient and welcoming public access to the existing Valet Parking Garage.

The location of coastal access parking spaces in the Valet Garage was approved by the Executive Director as part of the approval of Final Plans for the project pursuant to Special Condition #4. The location of the 25 spaces in the Valet Parking Garage requires interface with the hotel valet parking operation as the spaces are behind a security gate at the entrance to the garage. Paragraphs 5 – 16 of the NOI set forth the Coastal Commission staff's account of its interaction with the hotel management and the owner's representative between June 2001 and August 2002 as a result of complaints from members of the public, generally related to problems with access to the public parking spaces in the Valet Garage, operation of the hotel greeter station, and the interface with valet parking staff. We concede that some operational problems probably did occur although we have not been supplied with specific information related to who filed the complaints and the details of the complaints. The hotel staff on many occasions has had a different account of what transpired, most of which is documented in the correspondence back and forth during the above mentioned timeframe.

In response to its communications with staff, the hotel made specific changes to the access program such as additional signage, communications equipment to enhance the communication between the hotel greeter station attendant and the valet parking operation, additional employee training, and increased hours of staffing the greeter station. These revisions seemed to be effective as evidenced by the lack of complaints between August 2002 and March 2003. However, the Ritz-Carlton management team went through a management transition between March and June 2003. The hotel general manager and executive assistant manager both left the Property for positions elsewhere. These two leaders were the most familiar with the coastal access parking problems experienced during the first year of the operation. A new general manager started in early June 2003 and a new executive assistant manager followed in July 2003. Based on the allegations set forth in paragraphs 18 – 23 of the NOI, it appears that this management hiatus contributed to new Valet Garage coastal access operational problems.

Mr. Ratchford, the new hotel general manager, attended a meeting with Coastal Commission staff in San Francisco on March 4, 2004 and outlined steps that have been taken since receipt of the NOI to assure the hotel's compliance with the coastal access program. Steps outlined include:

- Renewed employee training programs related to the Coastal Access program.
- Change in the staffing of the hotel greeter station from the hotel's loss prevention (security) department to the more welcoming guest services department.
- Commitment to manning the greeter station during daytime hours seven days per week (as opposed to the previous practice: weekends, holidays and whenever the hotel occupancy exceeded 50%).

Exhibit #14

CCC-03-CD-014

Page 15 of 21

Exhibit 3

CCC-03-CD-14-A &  
CCC-19-AP-01

Page 80 of 86



However, even with these operational improvements, coastal access parking in the hotel's Valet Parking Garage remains subject to human error as it requires interface with hotel personnel at both the greeter station and the gated security entrance to the Valet Garage. In order to eliminate the potential for human error in the future, the hotel owner and manager have recommended that the 25 parking spaces in the Valet Garage be relocated to a new area in the middle of the hotel property adjacent to the coastal trail. These spaces would be designated for coastal access parking only and would provide members of the public the opportunity to self-park without an interface with the hotel valet parking staff. Additional directional signage would be installed to provide members of the public an easy to follow route to the self parking location. The location of the new spaces would provide easy access to the coastal trail allowing access to Miramontes Point as well as the northern extension of the trail through Half Moon Bay. However, this alternative location has been rejected by Coastal Commission staff on the basis that it would be possible for other users (i.e. hotel guests, tennis club members, etc.) to park there. To mitigate the potential for this to occur, the hotel management has offered to post additional personnel on busy weekends and holidays and periods of high hotel occupancy to assure that only visitors displaying the coastal access parking pass provided at the hotel greeter station will be allowed to park there. This was not acceptable.

Coastal staff has indicated a preference to identify alternative parking locations near the hotel greeter station. However, we have pointed out that we do not own any land in that area and the land being suggested is currently in use as a golf course and single family homes. The Miramontes Point Road right-of-way owned by the City is not wide enough to provide an opportunity to expand further and add parking.

We have also suggested the possibility of building new coastal access parking at the end of Redondo Beach Road in lieu of providing the parking spaces on site; an option that is permissible under Special Condition #2(a) of the CDP. This was also not acceptable to Coastal staff.

Thus, it appears that the owner/developer has no choice but to keep the existing 25 coastal access parking spaces in the Valet Garage and continue to run the risk that human error may lead to occasional breakdowns in the system. We are following up on a suggestion from Coastal Commission staff to evaluate alternative gate mechanisms that would accept a token or card distributed by the hotel greeter station attendant in order to eliminate the need to interface with the hotel valet parking operation. We expect to implement this change in equipment if the Commission decides that we should keep this segment of the hotel's coastal access parking in the Valet Garage.

In summary, the Ritz-Carlton, Half Moon Bay is committed to providing an exceptional coastal access program. We remain hopeful that an alternative parking location can be identified that will improve the situation and complement the hotel's visitor serving use.



## II. Response to Specific Allegations

The following information is in response to information and/or allegations made in the October 23, 2003 Notice of Intent (reference specific paragraph #'s):

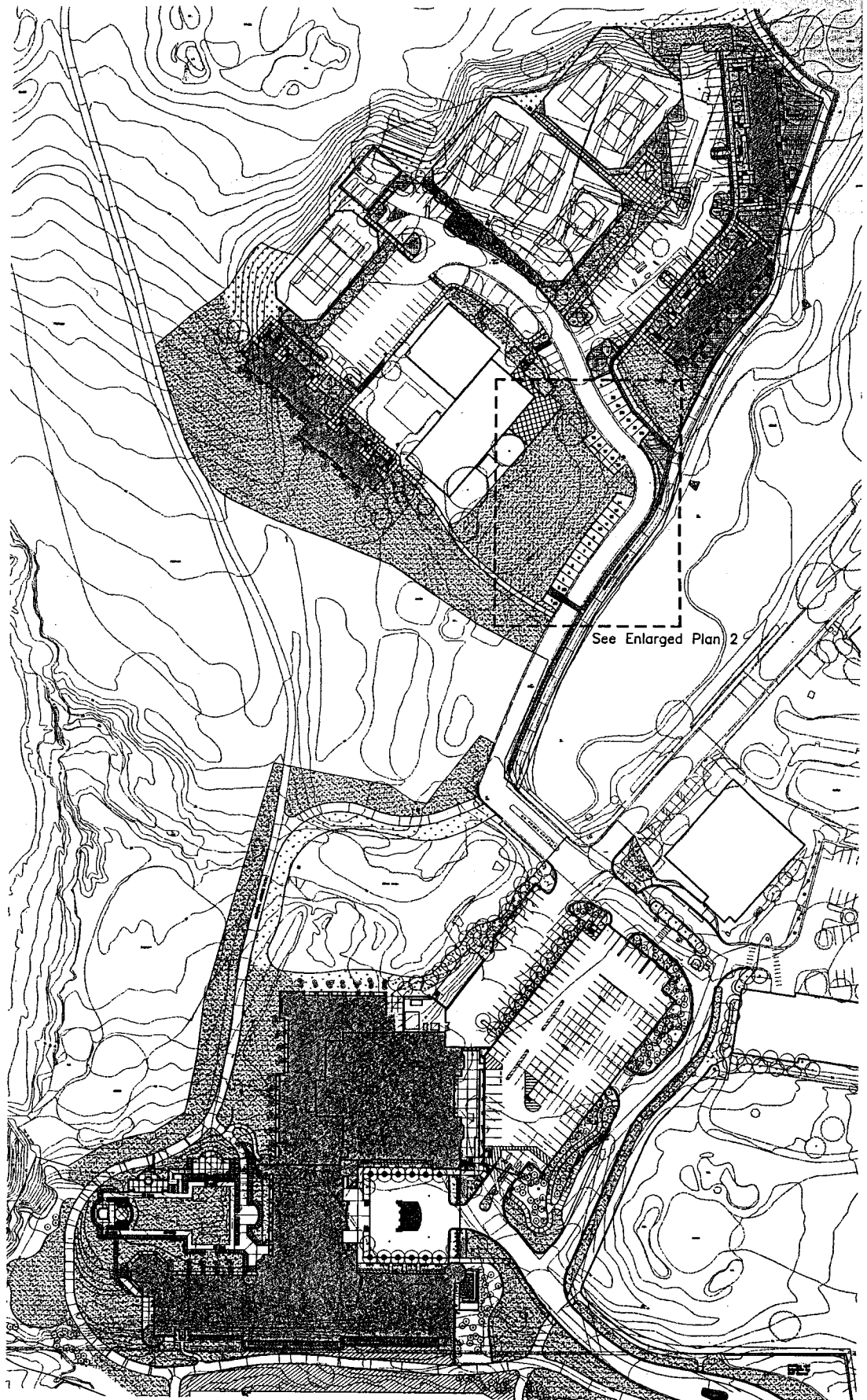
5. Interviews with hotel management in June 2001 indicated the hotel had provided access to the required coastal access parking spaces and that no one had been charged a fee for such access. Nevertheless, there was confusion on the part of some hotel employees in the months following opening of the hotel and it is possible some miscommunication occurred, although we have seen no evidence of the specific incidents alleged in the NOI. Subsequent action by the hotel as chronicled by Coastal Commission staff improved the situation but, based on the allegations in the NOI, it appears breakdowns may have continued to occur
8. As a result of this complaint an internal investigation was conducted by Ritz-Carlton. An audit of the hotel managers involved found that the management team and staff associated with the greeter station and valet parking were aware of the coastal access parking protocol. Nevertheless, the hotel reinforced its employee training programs related to the coastal access parking and ordered additional signage to improve the directional signage to the coastal access parking area in the Valet Garage.
10. Subsequent to the September 11, 2001 terrorist attacks, the hotel's business level dropped off dramatically necessitating some staff cutbacks. The decision was made to cut back on the hours of operation of the hotel greeter station due to the low levels of business. The greeter station was not staffed on weekdays and the Coastal Commission staff visited on a Tuesday. The failure to man the greeter station led to interface problems with members of the public trying to find valet staff to open the Valet Garage security gate so that they could access the public coastal parking. The hotel subsequently: added signage directing the public to see the hotel's valet staff for entry in the event the greeter station was closed; increased the days and hours of operation of the greeter station; began to keep a log of visitors utilizing the coastal access parking; and provided additional employee training programs to further educate hotel employees about the coastal access parking facilities. There is also reference to Coastal staff being directed "off hotel grounds to the 15-space County-run parking area along Miramontes Point Road". This parking area is not run by the County but in fact is part of the hotel's On-site/Ocean Colony Public Access Program.
11. See the response for #10 above.
14. The hotel management did follow-up and implement the Coastal Commission staff request to change the wording on the signage.

15. The hotel did follow-up and implement this directive. As noted in #10 above, the reference in item #3 under this paragraph to the "County parking lot" is inaccurate.
18. As mentioned above, the hotel went through a management transition beginning in March 2003. Based on the allegations in the NOI, this may have contributed to a breakdown in coastal access parking operations in the Valet Garage. It is difficult to determine what was said by the greeter station attendant to the member of the public. In follow-up interviews, hotel management indicated that it is common for visitors to ask "where can I park to get to the beach"? In this case, the greeter station attendant made the visitor aware of the Canada Verde Beach Parking Lot back along Miramontes Point Road. The rest of the alleged interaction with the greeter station attendant is an example of the confusion that can arise as a consequence of the interface with the Valet Garage and valet staff. We have suggested relocating the Valet Garage coastal access parking to eliminate the valet interface. This is not offered as an excuse for any failure by the hotel to meet its coastal access parking responsibility but, rather, to explain there is a better way to set this up to mitigate the potential for future breakdowns.
19. See explanation above relative to problems with the part time operation of the greeter station. In this case the visitor was accommodated but in the wrong location.
20. See Paragraph 10 regarding the "off-site County parking lot" which is part of the hotel's approved public access program. The greeter station attendant should have informed the Commission staff member of the coastal access spaces in the garage in accordance with the public coastal access policies of the hotel.
21. The paragraph alleges that the visitor "asked the greeter where to park in order to access the beach trail." The Canada Verde Beach Parking Lot on Miramontes Point Road, a part of the hotel's On-site/Ocean Colony Public Access Program, not an "off-site County parking lot," is the closest spot to access the trail to the beach. Although the system did not function perfectly on the second go-round, the member of the public did ultimately park at the hotel's Valet Garage as desired.
22. This instance is an example of the problems experienced with the interface between a coastal visitor and the Valet Garage and the hotel valet staff, particularly the difficulty that some members of the public have finding the hotel valet area. The hotel employee did offer to park the vehicle and accommodate the visitor, however the visitor chose to leave due to the confusion of the parking arrangement

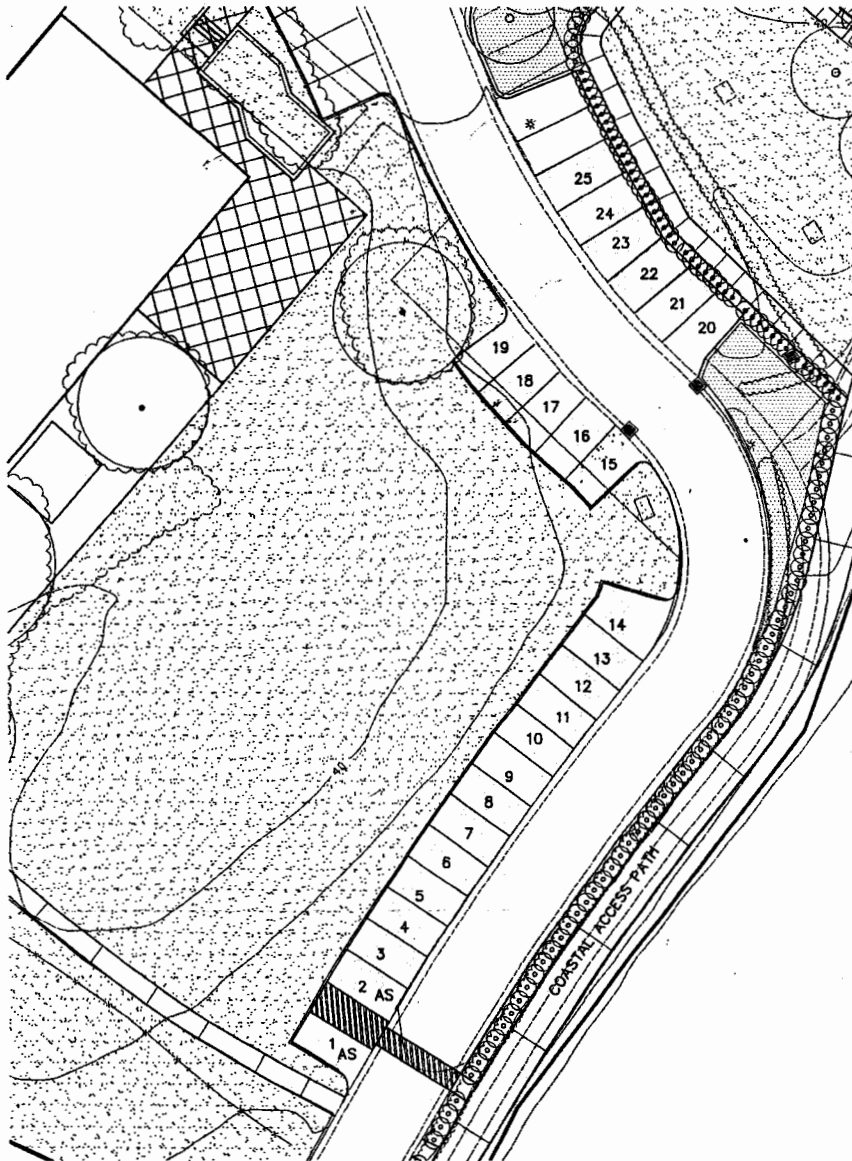
23. In this case, the visitor was accommodated and from the information presented it is impossible to determine if the other cars in coastal access parking spaces belonged to members of the public or not. See Paragraph 10 regarding the erroneous reference to the "County public lot".
24. The lawn area adjacent to the Colony Club was used for overflow parking during some hotel events in September 2003 that coincided with very busy golf course parking demand. This does not constitute development activity. The lawn area that was used for parking is shown as a paved parking lot on the plans approved by the Coastal Commission when the project received its CDP approval. Since the hotel was down-sized from 350 rooms to 261 rooms subsequent to the CDP approval, this area of asphalt parking was not constructed. Instead a lawn was put in, but the overflow condition necessitated using the lawn for parking during this period. The hotel did also allow one group to use helicopter transportation from the airport to the property during the pumpkin harvest season when traffic on Hwy. 92 into Half Moon Bay was very congested. The hotel has since informed the City of Half Moon Bay that it will no longer condone helicopter landings on the hotel property. Lastly the hotel did erect a tent for use of a group on a temporary basis. The tent was subsequently taken down. The hotel is currently in discussions with the City of Half Moon Bay about the permit requirements for use of the tent in the future.

We have attempted to respond to the allegations with the limited information available to us. We could do a more thorough investigation if the Coastal Commission staff would provide us with the records of the complaints so we could conduct follow-up interviews with the individuals involved.

In closing, we feel the steps implemented by Ritz-Carlton management since receipt of the NOI in October have substantially rectified the situation and we are encouraged that the Coastal Commission staff's recent spot checks came back with favorable reviews. We are confident that our public access operations will run even smoother once we relocate the 25 spaces in the Valet Garage to an alternative site in the middle of the hotel property adjacent to the Coastal trail, as we would prefer, or install a token or ticket machine at the Valet Garage entrance that would permit coastal visitors to access the existing 25 public spaces in the Valet Garage without interfacing with valet staff. We reserve the right to revise this statement or supplement it with additional evidence and argument.




1 Overall Site Plan  
Scale 1"=100'



2 Coastal Access Parking  
Scale 1"=30'

Exhibit #14  
CCC-03-CD-014

Page 20 of 21

<p><b>Ciardella</b> associates Landscape Architects Urban Designers 650 326 6100 937 Rose Avenue Menlo Park, CA 94026</p>	<p>Project</p>  <p><b>THE RITZ-CARLTON</b> HALF MOON BAY RESORT HALF MOON BAY, CALIFORNIA</p>	<p><b>Coastal Access Parking Study</b></p> <p>DATE: 11/3/03 SCALE: _____</p> <p>△ _____ △ _____ △ _____</p>	<p>Exhibit 3 CCC-03-CD-14-A &amp; CCC-19-AP-01 Page 86 of 86 SH</p>
---------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



September 30, 2016

Kevin Kelly  
General Manager  
The Ritz Carlton Half Moon Bay  
One Miramontes Point Road  
Half Moon Bay, CA 94019

Subject: Violations of Coastal Development Permit ("CDP") No. 3-91-71<sup>1</sup> ("the Permit") and Consent Cease and Desist Order CCC-03-CD-014 ("the Order") concerning public parking and public access at the Ritz-Carlton Half Moon Bay

Violation File No.: V-2-16-0048 (Ritz-Carlton Half Moon Bay)

Property Location: One Miramontes Point Road, Half Moon Bay, San Mateo County;  
APNs 066-092-780 and 066-092-770

Dear Mr. Kelly:

I must bring to your attention that once again, in recent months, the staff at the Ritz-Carlton Half Moon Bay ("Ritz-Carlton" or "Ritz") has not been following the approved and required protocol for welcoming visitors who wish to use the public access and parking amenities at the Ritz-Carlton, resulting in violations of the Permit for and the Order issued to the Ritz-Carlton. In addition, staff of the California Coastal Commission ("Commission") was notified in March of 2016 that the public access sign at the Cañada Verde parking lot is gone, which is also a violation of the Permit and the Order. As you may know, the Ritz-Carlton is required to provide public access and parking to visitors who wish to use the public amenities, as I will describe in detail below. First, I will provide some background.

<sup>1</sup> The Coastal Commission's Central Coast District office processed the 1991 CDP application; but in 1995, the Commission reassigned jurisdiction over permits for San Mateo County (including Half Moon Bay) from the Commission's Central Coast District to its North Coast District. The original CDP therefore had a Central Coast number: 3-91-71. But when the applicant was ready to submit documents for condition compliance, permit jurisdiction for the project had been transferred to the North Coast District. In 1995, the original CDP was renumbered from 3-91-71 to 3-91-71/1-95-47 to reflect the change in jurisdiction and to clarify internal permit record keeping.

## **Background**

**CDP No. 3-91-71** (now **CDP No. 3-91-71/1-95-47**) ("the Permit"), conditionally approved by the Commission on October 10, 1991, authorized construction of a 271-room luxury resort hotel complex, land division, and extension of Miramontes Point Road, and included the construction of public access improvements. The permittees were the Ritz-Carlton Hotel Company LLC, which had acquired the property from Half Moon Bay Resort Partners, and the City of Half Moon Bay (for that portion involving the extension of Miramontes Point Road to the hotel property).

Through special conditions of the Permit, the Commission required the Ritz-Carlton to provide a variety of public access amenities, including a blufftop scenic overlook; a paved pedestrian access path along the length of the property; bike lanes connecting from Highway One to and along the property; public restrooms and viewing decks; a vertical accessway to Cañada Verde Beach; public parking in two locations; and signage clearly marking for public use all access routes, public parking, Miramontes Point Overlook, and public restrooms. The Commission specifically required the provision of two different public parking areas, a 15-car lot located next to the pathway to Cañada Verde Beach south of the hotel premises (referred to by Ritz staff as "the outside lot" and referred to in this letter as the "Cañada Verde parking lot"), and 25 parking spaces either on hotel premises or at the end of Redondo Beach Boulevard, north of the hotel property.

In November of 1998, the Commission's Executive Director ("ED") approved the revised plans submitted by the permittees as being consistent with the hotel Permit. In those plans, the Ritz-Carlton proposed and the ED approved the provision of the 25 public parking spaces within the hotel parking garage (as well as approving the separate, 15-car, Cañada Verde lot). It should be noted that, prior to development, the Commission found sufficient evidence of the existence of a public prescriptive right to the use of the subject property that it determined that the approved resort hotel project would have to preserve and provide for continuing public use of the shoreline property in order to comply with the mandates of the public access policies of Chapter 3 of the Coastal Act. On March 10, 1999 the Permit was issued to the Ritz-Carlton.

## **Coastal Act Violation History**

Starting in May/June of 2001, right after the hotel opened, the Commission began receiving reports from the public that the Ritz-Carlton was denying the public the use of the 25 designated public access parking spaces located in the hotel garage; these parking spaces were a requirement of the Permit. According to these reports, in some instances the public was informed specifically that there was no public parking on the hotel site; in other cases the fact that there was supposed to be onsite public parking was simply not mentioned when visitors asked about public parking. In each case, the public was directed to the 15-space Cañada Verde parking lot south of the Ritz property (which was also a requirement of the Permit, as discussed above). Others reported they were told they could park "where the caddies park" in the service area. There were several

reports that the Greeters Booth (also referred to in this letter as "Greeters Station" or "kiosk") was unattended during daylight hours so the visitors did not know where to go or what to do, and that the sign with the arrow stating "Coastal Access Parking" was confusing as it did not point to any particular destination. Commission staff repeatedly attempted to resolve the situation by telephoning, writing letters, and meeting with Ritz staff several times regarding the problem of permit compliance. After numerous unsuccessful attempts by staff to resolve the public access violations administratively, on April 14, 2004, the Commission issued to the Ritz-Carlton **Consent Cease and Desist Order No. CCC-03-CD-014** ("the Order"), after finding that the Ritz had failed to provide to the public the required access to the 25 spaces within its garage.

The Order, which is still in effect, requires the Ritz Carlton to continue to comply with the Permit and immediately, on an ongoing basis, ensure that 25 easily identified public parking spaces are readily available for public use on the hotel premises. The Order also required installation of additional parking signs in various designated locations, including revised signage at the Greeters Station; additional signage in the hotel parking garage; additional signage on Miramontes Point Drive adjacent to the existing 15-space lot for Cañada Verde beach access, indicating that the lot is a public parking lot and that 25 additional public parking spaces are available within the Ritz Carlton garage; and new signage within the 15-car parking lot at Cañada Verde that indicates that 25 additional public spaces are available within the Ritz-Carlton parking garage.

The Order also requires the installation of mechanical devices to allow the public to self-park within the hotel garage; creation and distribution of a public access amenities brochure that identifies all public access trails, restrooms, overlooks, and parking areas; provision of an employee-training program for ensuring compliance with the public parking and other coastal access requirements of the Permit and the Order; and payment of \$50,000 in settlement monies in lieu of litigation for monetary penalty compensation for Coastal Act violations.

The purpose of most of these requirements is to allow the public to access the parking spaces independently without having to solicit assistance from Ritz-Carlton valet staff stationed at the hotel entry or elsewhere on hotel premises to obtain entry. The Order specifically states that the Ritz-Carlton's employees shall be required to inform anyone who makes any inquiry about trails, the beach, coastal access, the blufftop overlook, or parking, about the onsite, free public parking within the hotel garage.

The Order also contains a provision for Stipulated Penalties. The Order states that strict compliance with the Consent Order is required, and that failure to comply with any term or condition of the Order will constitute a violation of the Order, and if the ED determines that a violation of the Order has occurred, the Ritz-Carlton is liable for stipulated penalties in the amount of \$500 per day per violation. The Ritz-Carlton is required to pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties.



Subsequent to issuance of the Order, the Ritz-Carlton submitted to Commission staff for review and approval a copy of a brochure for distribution to the public that identified available public access on the Ritz-Carlton property. As approved by the Commission's ED, the four-page fold-out brochure, called "Visitors' Guide," included an 8 1/2" x 11" map of the Coastside Trail with accompanying text, which identified and described all available public parking, picnic areas, and restrooms at the subject site. Pursuant to the Order, this Visitors' Guide is to be distributed to all members of the public stopping at the Greeter's Station who indicated a desire to use the public access amenities at the subject site.

In a letter dated May 11, 2004 to Commission staff (Nancy Cave), a proposal was made for an alternative to the gate mechanism required by the Order, and ultimately both parties agreed that a digital keypad would be installed at the gate and that the access code to the gate would be provided to visitors at the Greeters Station. Thus, members of the public wishing to park in the 25 designated Coastal Access parking spaces within the hotel's garage would receive the access code for the garage from staff at the Greeters Station and would be able to obtain entry to the garage without needing further assistance from hotel staff stationed elsewhere on hotel premises; this necessitates the staffing of the Greeters Station during daylight hours. It was further agreed that there would be additional signage installed that would direct members of the public to the parking area. This new system was subsequently implemented.

On November 7, 2005, Commission staff sent to Paul Ratchford, then General Manager for the Ritz-Carlton, a letter confirming that the Ritz-Carlton was in full compliance with the terms and requirements embodied in the Commission's Order at that time.

However, in a letter dated March 9, 2007 and sent to Peter Ells, then General Manager for the Ritz-Carlton, and Mike Nelson, Vice President for Asset Management, I noted that since November 7, 2005, the Commission had received several new reports from members of the public who had had difficulty with parking in the designated Coastal Access parking spaces within the hotel's garage. The complaints included people having not received the approved public access brochures; being once again directed to the offsite Cañada Verde parking lot by the Greeter; and being treated rudely and unhelpfully by the Greeter. These are violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order. Because of these continued incidents of non-compliance with the Order, comprising five Coastal Act violations, the Commission's ED assessed the Ritz-Carlton a stipulated penalty of \$2,500.

Mr. Ells sent a letter of response dated March 19, 2007, listing the steps that had been taken to remedy the complaints described in my letter of March 9, 2007 and including a check for the assessed stipulated penalties. He indicated that the approved four-page Visitors' Guide would be distributed to anyone indicating an interest in using the public access amenities at the Ritz-Carlton, and that all employees involved with the Greeters Booth would go through training to

KEVIN KELLY  
Ritz-Carlton Half Moon Bay  
Page No. 5

make sure they are aware of their duties and responsibilities concerning dissemination of information to the public about the public access amenities at the Ritz-Carlton.

In a letter dated December 30, 2010, Ms. Yunhee Lee of EAM Room Operations at the Ritz-Carlton proposed some changes concerning operation of the Greeters Station. Ms. Lee proposed that the Greeters Station be manned only on days when the hotel was to have at least 80% occupancy; that existing signs near and at the Greeters Station be modified to indicate that Coastal Access Parking is available at the garage, and that visitors should obtain the entry code from the valet; and that the Ritz-Carlton Doorman or Golf Links Valet would give out the access code and the approved Visitors' Guide to those persons indicating an interest in using the public access amenities.

I sent a letter of response dated February 10, 2011, in which I indicated that the proposed new system would not be consistent with the conditions and intent of the Permit or the Order. I indicated that because there had been so many problems prior to Mr. Ells' commitments in 2007 -- problems which resulted in the Commission issuing a Cease and Desist Order to the property owners and, later, assessing stipulated penalties against the property owners for violations of that Order -- Commission staff were loath to change a system that appeared to be working, and which was designed to address prior problems and violations of the permit conditions. The system suggested by Ms. Lee, which would necessitate a visitor needing to drive to the main door of the hotel to speak with a hotel valet or try to find a valet for the Golf Course, seemed potentially confusing and would add unnecessary complexity to the process. I therefore advised that the current system remain in place; that is, that the Greeters Station be manned during all daylight hours with a trained Greeter present to distribute the required Visitors' Guide, provide the access code for the parking garage, and direct the visitor(s) to the garage.

In July of 2011, we again received a complaint, this time from a visitor who described in detail the treatment he and his family received when visiting the Ritz-Carlton Half Moon Bay on Sunday, July 3, 2011. According to his report, there was no attendant on duty at the Greeters Station when the gentleman and his family arrived around 9:00 a.m. on July 3, and when he requested the garage code from a valet located at the entrance to the Ritz-Carlton, the valet was rude and unhelpful, and directed the visitors to the Cañada Verde parking lot located outside of the Ritz-Carlton grounds. The valet also told the gentleman that the valets don't have the codes to access the hotel parking structure; that the hotel was going to be busy and would need the spaces; and that the spaces were already full. Then the valet told the gentleman that "we provide those spots as a courtesy to the public and don't have to let you park there."

The visitor and his family were directed to park behind the tennis courts, and then, as they passed the parking structure where the public parking spaces are located, they saw that all of the coastal parking spaces were empty. The gentleman's wife then returned to the valet area near the entrance to the hotel and eventually was given the garage access code after her repeated requests got the attention of other arriving guests, at which point they moved their car to the garage.

The gentleman also reported that upon returning to the garage for their departure about four hours later, the garage was full and valets were double-parking cars in the aisle of the garage, and there were valet hang-tags hanging from some of the cars parked in the designated Coastal Access parking spots. He noted that he observed a valet parking a hotel guest car in the public parking space that he had vacated. There were thus violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet) and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order, and **Special Condition No. 2(a)** of the Permit, which requires provision of public access parking.

In response to this, I sent a letter dated July 21, 2011 to then General Manager Bernd Kühlen, describing the Coastal Act violations that had taken place and assessing a stipulated penalty in the amount of \$1,500 for violations of the Order. I received a letter of response dated August 31, 2011, from Yunhee Lee, Executive Assistant Manager, Room Division, confirming in writing that: a) the Greeters Booth will always be manned during daylight hours and that there is explanatory signage at all times indicating that the public access parking is available in the parking garage for those wishing to access this amenity, and b) employee training will continue to occur for all employees so that they are aware of their duties and responsibilities regarding the information about the public access amenities at the Ritz-Carlton, including the public access parking. Included with the letter was a check in the amount of \$1,500 for the Coastal Act violations.

I was forced to send yet another letter to the General Manager of the Ritz-Carlton (then George Munz) dated July 23, 2013, in which I described two new events wherein there were violations of the Permit and the Order. In April of 2013, when I visited the Ritz-Carlton, the Greeters Station was unattended. While it was around 6 p.m., it was still daylight, and the Greeters Station is supposed to be attended during all daylight hours so that the Greeter can provide a Visitors' Guide brochure and the garage access code to visitors who wish to use the public access amenities at the Ritz-Carlton.

On July 18, 2013, we received a complaint from a gentleman who had visited the Ritz-Carlton several times in the previous year, and when he approached the Greeters Station on two of these occasions, he was told to park at the 15-space Cañada Verde parking lot, and he was not offered one of the designated Coastal Access parking spaces in the garage nor provided with a Visitors' Guide brochure. During the July 4<sup>th</sup> weekend, he was told the parking lot was full and was only for hotel guests.

In my July 23, 2013 letter I requested that Mr. Munz ensure that the Greeters Station is always manned during daylight hours and that there is explanatory signage at the Greeters Station at all times indicating that public access parking is available in the parking garage for those persons wishing to use the public access amenities at the site. I also asked that he confirm in writing that regular employee training will continue to occur such that all employees, not just those who will work at the Greeters Station, are aware of their duties and responsibilities concerning

dissemination of information about the public access amenities at the Ritz-Carlton, including the available coastal access parking in the hotel garage and the public access trails. I indicated that Greeters should be prepared to distribute the Visitors' Guide to all persons expressing an interest in going to the beach and therefore using public access amenities at the Ritz-Carlton, and that valets and other staff should also be prepared to respond appropriately to members of the public seeking to use the public access amenities at the Ritz-Carlton, and should be prepared at all times to provide copies of the Visitors' Guide to such persons and also to provide the garage access code to such persons. We assessed no stipulated penalties at that time, although there were violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Consent Order, as well as violations of **Special Condition 2(a)** of the Permit, which requires the provision of public access parking; additionally the Ritz was out of compliance with the written confirmation by Ritz personnel that the Greeters Booth would be manned during daylight hours and that Greeters would distribute the Visitors' Guide to all persons indicating an interest in using the public access amenities.

I received a response dated August 23, 2013 from Maria Martinez, then Executive Assistant Manager of the Ritz-Carlton, stating that a number of steps were in progress to respond to our concerns, including regular training for all employees concerning dissemination of information about the public access amenities; assurance that the Visitors' Guide and garage access code would be distributed to all persons expressing interest in going to the beach and therefore using public amenities at the Ritz-Carlton; assurance that the Greeters Booth would be staffed from sun-up to sundown; improvement to signage; implementation of a new system to provide cards to be placed on dashboards of those cars directed to the coastal access spaces; and daily and nightly reviews of the spaces to ensure the spaces are occupied properly.

On July 13, 2015, we received a complaint from someone who said he was prevented from accessing the public coastline by the Ritz, alleging that a private guard hired by the Ritz stopped his vehicle and refused to grant him the right of access unless he obtained a special pass. He was told there were no passes available, so he went to the lobby and spoke with the parking manager, who, after a while, grudgingly agreed to check on the pass availability. The parking manager returned with some passes, and informed the complainant that the City Council had approved the new pass-based system. Commission staff is not aware of any new pass-based system approved by the City Council; the dissemination of Coastal Access passes to coastal visitors had been in place for some time. The difficulties faces by this visitor appear to be violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Consent Order and **Special Condition No. 2(a)** of the Permit, which requires provision of public access parking. In response to this, I spoke with Greg Busch, the Valet Manager, with whom Patrick Veasart, Stephanie Rexing, and I had met with earlier that month to discuss coastal access parking at the Ritz-Carlton. Mr. Busch stated that the complainant had started yelling and making a scene; when I spoke again with the complainant, he disagreed with that assessment of the situation, and said the Ritz staff had been very unhelpful. Mr. Busch

indicated a desire to meet with Coastal Commission Planning Staff to discuss alternative parking schemes, and Planning Staff indicated that he should first submit project alternatives for staff's review. Mr. Busch never submitted project alternatives and so that meeting did not take place.

### Recent Violations

In the last few months, we have had several new complaints about the Ritz-Carlton's failure to comply with the Permit and the Order, as described below. We received a report in March of 2016 that the sign at the Cañada Verde parking lot concerning public access is gone, in violation of **Section 1.1(2)** of the Consent Order, which requires a sign to be posted on Miramontes Point Drive, adjacent to the existing 15-space lot for Cañada Verde indicating that the lot is public and that 25 additional public parking spaces are available within the Ritz Carlton garage. This condition also requires an identical sign to be placed within the 15-car parking lot at Cañada Verde. This lack of signage is also a violation of **Special Conditions No. 2(h) and 3(e)** of the Permit, which require provision of signs indicating public access amenities

We next received a complaint from a visitor who reported having problems with public access parking on Saturday, May 14, 2016. She reported that there was no Greeter at the kiosk during daylight hours; that the valet was unhelpful and gave out misinformation; that the manager was unhelpful and only provided the garage access code after she was insistent; that valets in the garage provided misinformation; and that when she contacted the Ritz through Facebook, they also provided misinformation about public access amenities. This visitor forwarded us screen shots of the Facebook conversations, and we confirmed that misinformation about public access amenities had indeed been provided. These are violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order, and **Special Condition No. 2(a)** of the Permit, which requires public access parking.

Patrick Veasart of our Enforcement staff visited the site on May 18, 2016, parked at the Cañada Verde parking lot, walked the coastal trail, and at 5:15 p.m. found every one (save one) of the designated Coastal Access parking spaces occupied. One car had a valet hang-tag on the windshield and one car had a Coastal Access pass displayed. The other cars had no tags. Many of the cars had been backed into the spaces in the manner in which valets park cars. The kiosk was unattended. These are violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order, and also of **Special Condition No. 2(a)** of the Permit, which requires public access parking.

Mr. Veasart also visited the site on May 25, 2016 at 7:45 a.m. While there was a Greeter at the kiosk, when Mr. Veasart asked for coastal parking he was given a Coastal Access Parking Pass (with the wrong date) but was not given the garage code until he requested it. He was not given a Visitors' Guide. He reports that 15 of the 25 designated Coastal Access parking spaces were occupied, but none of the cars parked there had coastal access passes displayed. No cars in the

Coastal Access parking spaces had valet tags, but six of these cars were backed into the spaces in the manner in which valets normally park cars. All the cars that were parked in the regular valet spots (all had valet hang-tags) had been backed into the spots, suggesting that the backed-in cars parked in the Coastal Access parking spaces may have been parked by valets. We thus conclude that there were violations of **Sections 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order, and **Special Condition No. 2(a)** of the Permit (requiring public access parking).

Mr. Veasart also revisited the site later on May 25, 2016, arriving at 4:10 p.m. A Greeter presented him with a white "coastal access parking" pass with the access code on it, but no Visitors' Guide. He noted that 19 of the Coastal Access parking spaces were occupied. Three of the cars parked in the Coastal Access parking spaces had coastal access passes displayed; none of the cars had valet hang-tags displayed. Some of the cars were the same cars he had observed in the morning (thus unlikely to be cars belonging to visitors using the coastal access amenities at the Ritz, which would be a violation of **Section 1.1** of the Consent Order). When he left at 4:30 p.m. there were cars lined up at the kiosk and the Cañada Verde public parking lot was full.

Mr. Veasart also visited the site on June 1, 2016, arriving about 5:30 p.m. The Cañada Verde lot was full. The kiosk was not staffed, so he proceeded to the parking garage where he found a parking valet and asked for the code to enter. The valet told Mr. Veasart that he did not have the code (although he was clearly able to enter the garage) and that Mr. Veasart would have to inquire at the valet station at the hotel entrance. The valet did not offer to let Mr. Veasart into the garage. Mr. Veasart left and parked in a vacant parking spot in a lot adjacent to the garage (not a public parking space) and walked up the stairs and into the garage. Once in the garage, Mr. Veasart noted that 17 of the 25 Coastal Access parking spaces were vacant. Of the eight cars parked in the Coastal Access parking spaces, none had Coastal Access parking passes displayed, two had valet hang-tags (including one parked in a designated Coastal Access handicapped parking space – displaying an appropriate disabled parking permit), and three were backed in, in the manner normally employed by valets. This is a violation of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order and **Special Condition No. 2(a)** of the Permit, which required provision of public access parking.

As Mr. Veasart was walking around looking at what was displayed on the windshields of those cars parked in the Coastal Access parking spaces, a car drove up to the swing-arm at the entrance to the garage and parked outside the garage. A woman got out and approached Mr. Veasart, asking if she could park in the coastal parking spaces so that she could use the public access amenities. Mr. Veasart identified himself as working for the Commission, told her that she could, and relayed the message from the valet that she would need to go to the valet station to get the code. Once Mr. Veasart was finished at the garage, he drove up to the valet station. As he approached, he saw the woman's car leaving and driving out the main road. He parked and was

approached by a valet, whom he asked for the code to get into the garage. The valet hesitated, and then reluctantly told Mr. Veasart that he would go get the code, but warned him that the garage "closed soon" and that the sheriffs would ticket his car. The valet came back with a Coastal Access Parking Pass and the access code and then pointed out that he had been mistaken and that parking was okay until 1-1/2 hours after sunset. Mr. Veasart thanked him and left, and then drove out to the Cañada Verde public parking lot where he encountered the woman (with two male companions) with whom he had previously spoken. She told him that she had been told by the valets that the garage was closed and that it was not their job to park the public there. They told her that she could valet-park her car and go to the restaurant. When she declined, she was told to go to the Cañada Verde public parking lot, which was where Mr. Veasart encountered her. She was shocked when Mr. Veasart showed her his Coastal Access Parking Pass. He asked her how she knew about the coastal parking at the Ritz, and she said from their website. She told Mr. Veasart that she had tried to park at the garage a couple of weeks previously, but was told the garage was full. However, when she went to the garage, she observed that it was not full and concluded that the Ritz did not want the public to park there. These are further violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order and **Special Condition No. 2(a)** of the Permit, which required provision of public access parking.

Mr. Veasart next visited the site on June 8, 2016, at about 7:30 a.m. The Greeters Booth was not staffed, and he was unable to access the parking garage. He entered the garage by foot and noted that there were seven cars parked in the Coastal Access parking spaces, none with Coastal Access passes displayed, or with any valet hang-tags. One of the cars had been backed in, valet-style. These are violations of **Section 1.1** (Provision of Public Parking Spaces and Public Signage), **Section 1.3** (Public Access Brochure or Pamphlet), and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order and **Special Condition No. 2(a)** of the Permit, which required provision of public access parking.

Mr. Veasart visited the site again on July 4, 2016, when parking demand was very high. The Cañada Verde parking lot was full with cars queued up waiting to get a space. The Bike Lane on the seaward side of the road was coned/taped off from the Greeters Booth to the parking lot to prevent cars from parking there (thus, blocking the required bike path). The Greeters Booth was staffed and the attendant was friendly and helpful, and provided a coastal access pass and the garage code but did not provide a Visitors' Guide, a violation of **Section 1.3** of the Order. Mr. Veasart reported that the garage was full with many cars waiting to park. There were five cars that had coastal access passes displayed, but the rest of the cars in the area reserved for the public did not, and ten of the cars were backed in, valet-style. As he was taking photographs, he was approached by a person who identified himself as a doorman, and who, when asked why there were so many cars without coastal access passes, responded that he thought some of the golfers had the code or a "clicker" that got them into the parking garage. He also speculated that former employees kept their clickers, and that they should probably do a better job of changing out the codes. This is a violation of **Section 1.1** (Provision of Public Parking Spaces and Public

Signage) and **Section 1.4** (Employee Training on Coastal Access Parking and other amenities) of the Order.

We received another report from a member of the public, who visited the site with a friend mid-morning on Sunday, August 7, 2016. She told the woman at the Greeters Booth that she wanted to visit the beach and was aware of designated parking in the garage for beach visitors. The Greeter told her that the garage was full but that they could check. The Greeter handed her a dated Coastal Access Parking Pass, and told her to put it on her dashboard. She was not handed a Visitors' Guide. The visitor drove to the parking garage and saw that it was full. She checked the cars that were parked in the designated Coastal Access parking spaces, and none of those cars had a Coastal Access Parking Pass displayed; one of the cars parked in a designated Coastal Access parking space had a monthly parking tag displayed. These are violations of **Sections 1.1** (Provision of Public Parking Spaces and Public Signage) and **Section 1.3** (Public Access Brochure or Pamphlet) of the Order, and also a violation of **Special Condition No. 2(a)** of the Permit, which required provision of public access parking.

It is clear that the Ritz-Carlton has not complied and is not complying with the terms and conditions of the Permit or the Order, or with the Ritz's written commitments to conform to certain public access protocols: the Greeters Booth is not consistently manned during daylight hours; staff is not consistently helpful, is at times rude to coastal access visitors, and is not consistently giving out correct information, indicating either that appropriate training has not taken place or staff is not following directions; the Visitors' Guide is not consistently being distributed; valets appear to be parking cars for hotel guests in the designated Coastal Access parking spaces in the garage, or possibly hotel staff is using some of these spaces to park while at work, as cars without Coastal Access passes displayed are consistently occupying the designated Coastal Access parking spaces. It also appears that golfers and/or former employees may have found a way to circumvent the system and are entering the garage improperly and parking in the designated Coastal Access parking spaces. These failures to comply with the Permit and the Order are continuing to occur after repeated commitments made by Ritz-Carlton management in response to previous complaints. The system is failing. It seems likely that for every complaint we receive, there are other unreported incidents where the public is not able to easily access the coastal access amenities required by the Order and the Permit. It appears that the designated Coastal Access parking spaces are regularly being used by the valets to park hotel guests, or for staff parking, rather than for public access, indicating that this is a hotel policy or management is "looking the other way."

#### **Public Access Violations**

Section 30604(c) requires that development between the nearest public road and the sea be in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. Section 30210 of the Coastal Act requires that "maximum access... and recreation opportunities shall be provided for all the people..." Section 30211 requires that development "...not interfere with the public's right of access where acquired through use or legislative authorization..."



Section 30213 requires that "lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided." Maximizing public access to and along the coast and maximizing public recreational opportunities in the coastal zone are high priorities for the Coastal Commission, are specifically protected in the Coastal Act, and are stated as basic goals of the state for the Coastal Zone in Coastal Act Section 30001.5. In this case, the terms and conditions of the Permit and the Order regarding provision of public access amenities have been violated, and continue to be violated, preventing the required public access and recreation opportunities. Therefore, in addition to being in violation of the Permit and the Order, the Ritz-Carlton is in violation of the Public Access policies of the Coastal Act, including Sections 30210, 30211, and 30213.

In cases involving violations of the public access provisions of the Coastal Act, which is the case here, Section 30821 authorizes the Commission to impose administrative civil penalties in an amount of up to \$11,250 per day for each violation. Further, Section 30821(h) states the following:

*(h) Administrative penalties pursuant to subdivision (a) shall not be assessed if the property owner corrects the violation consistent with this division within 30 days of receiving written notification from the commission regarding the violation, and if the alleged violator can correct the violation without undertaking additional development that requires a permit under this division. This 30-day timeframe for corrective action does not apply to previous violations of permit conditions incurred by a property owner.*

Since this case involves violations of permit conditions, as well as an enforcement order to which the Ritz-Carlton agreed in order to stop the continuing violations of those permit conditions that were already occurring years ago, the 30-day timeframe for corrective action is not applicable here, and administrative penalties are already potentially accruing daily.

It is our conclusion that the Ritz-Carlton has been in violation of the Public Access policies of the Coastal Act since at least March of 2016, and is subject to daily penalties since then under Coastal Act Section 30821. It is clear from the reports we have received and from Commission staff site inspections that the public access violations are ongoing and were likely occurring well before March 2016; such unpermitted activities would add to the daily accrual of penalties under Section 30821 of the Coastal Act. Daily penalties will continue to accrue until such time as these violations are resolved.

#### **Stipulated Penalties**

As noted above, the Order contains a provision for Stipulated Penalties, stating that strict compliance with the Order is required. Failure to comply with any term or condition of the Order will constitute a violation of the Order, and if the ED determines that a violation of the Order has occurred, the Ritz-Carlton is liable for stipulated penalties in the amount of \$500 per

day per violation. The Ritz-Carlton is required to pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties.

### **Resolution of Alleged Coastal Act Violations**

We would like to meet with representatives of the Ritz-Carlton to discuss how to prevent these sorts of Coastal Act violations from occurring in the future. After we meet and gauge how serious the Ritz-Carlton is about developing a permanent solution to these problems, we will consider whether to pursue stipulated penalties, penalties pursuant to Section 30821, and/or other penalties as discussed below. In the meantime, please do all of the following:

1. Please contact us by October 14, 2016, to arrange a meeting during which we can discuss how the Ritz intends to resolve the continuing Coastal Act violations at the site. We urge the Ritz to propose a long-term solution to avoid the necessity of future enforcement actions, including the assessment of penalties against the Ritz.
2. Please ensure that the Greeters Station is always manned during daylight hours, and that there is explanatory signage at the Greeters Station at all times indicating that public access parking is available in the parking garage for those persons wishing to use the public access amenities at the site. Please confirm in writing by October 16, 2016, that this has been done, that this is the policy of the Ritz-Carlton, and that the Ritz shall continue to abide by this policy, consistent with the Permit and the Order.
3. Confirm in writing that regular employee training will continue to occur such that *all* employees, not just those who will work at the Greeters Station, are aware of their duties and responsibilities concerning dissemination of information about the public access amenities at the Ritz-Carlton, including the available coastal access parking in the hotel garage and the public access trails. Greeters should be prepared at all times to distribute the Visitors' Guide to all persons expressing an interest in going to the beach or otherwise using public access amenities at the Ritz-Carlton, and should be prepared to provide the garage access code to such persons. All valets should be prepared to be polite and helpful to all persons expressing interest in using the public access amenities at the Ritz-Carlton. Please submit by October 16, 2016, such written confirmation and an indication of steps taken to avoid repetition of the problems outlined above.
4. Provide in writing by October 16, 2016, confirmation that the 25 designated public access parking spaces will be reserved during daylight hours for the public only, and shall not be used by valets for hotel guests, golfers, staff parking, or anyone not specifically wishing to use the public access amenities at the Ritz-Carlton. Please also submit a written plan for implementation of measures to ensure that this takes place.

5. Provide in writing by October 16, 2016, confirmation that proper signage has been erected in all locations required by the Permit and the Order, including inside the Cañada Verde parking lot. Please also submit photographic evidence of all required signage.

As you are aware, we have had many incidents of Coastal Act violations at the Ritz-Carlton concerning provision of the required public access amenities over the last 20+ years. We have become increasingly frustrated as time and time again we receive reports of violations, send letters expressing our concerns, and receive written assurances from Ritz-Carlton management staff that these violations will cease. Once again we find ourselves having to convey to Ritz-Carlton Management new incidents of violations of the Permit and the Order.

While we are hopeful that we can mutually agree to a permanent solution to these ongoing violation issues, please be advised that if we cannot resolve this matter quickly and cooperatively, in addition to the administrative penalty authority and stipulated penalties described above, the Coastal Act has a number of additional potential remedies to address violations of the Coastal Act, including the following:

Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. Section 30811 also provides the Coastal Commission the authority to issue a restoration order to address violations at a site. A violation of a cease and desist order or restoration order can result in civil fines of up to \$6,000 for each day in which each violation persists.

Additionally, Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 per violation for each day in which each violation persists.

Finally, Section 30812 authorizes the Executive Director to record a Notice of Violation against any property determined to have been developed in violation of the Coastal Act. If the Executive Director chooses to pursue that course, you will first be given separate notice of the Executive Director's intent to record such a notice, and you will have the opportunity to object and to provide evidence to the Commission at a public hearing as to why such a notice of violation

KEVIN KELLY  
Ritz-Carlton Half Moon Bay  
Page No. 15

should not be recorded. If a notice of violation is ultimately recorded against the property, it will serve as notice of the violation to all successors in interest in that property.


By this letter, please be advised that Section 30821 as described above is applicable in this case, and that administrative penalties of up to \$11,250 **per day per violation** may be assessed. Please further note that, as described above, the Ritz-Carlton is also subject to stipulated penalties, pursuant to the Order, in the amount of \$500 **per violation of the Order per day**.

If you have any questions about the alleged Coastal Act violations at the Ritz-Carlton, you may contact me at **415-904-5269**.

Failure to meet the deadlines noted above may result in formal action by the Commission to resolve this Coastal Act violation. The formal action could include a civil lawsuit, recording a Notice of Violation on the subject property, the issuance of an Executive Cease and Desist Order or Commission Cease and Desist and/or Restoration Order, and/or imposition of monetary penalties, as discussed above.

Thank you for your cooperation and prompt attention to this matter.

Sincerely,



JO GINSBERG  
Enforcement Analyst

cc: Patrick Veasart, CCC, Northern California Enforcement Program Supervisor  
Lisa Haage, CCC, Chief of Enforcement  
Aaron McLendon, CCC, Deputy Chief of Enforcement  
Nancy Cave, CCC, North Central Coast District Manager  
Stephanie Rexing, CCC, North Central Coast Supervisor  
Linda Locklin, CCC, Coastal Access Coordinator  
Alex Helperin, Senior Staff Counsel  
John Doughty, City of HMB Community Development Director  
SHC Half Moon Bay, LLC

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



December 22, 2016

Kevin Kelly  
General Manager  
The Ritz Carlton Half Moon Bay  
One Miramontes Point Road  
Half Moon Bay, CA 94019

Subject: Violations of Coastal Development Permit ("CDP") No. 3-91-71/1-95-47 ("the Permit") and Consent Cease and Desist Order CCC-03-CD-014 ("the Order") concerning public parking and public access at the Ritz-Carlton Half Moon Bay

Violation File No.: V-2-16-0048 (Ritz-Carlton Half Moon Bay)

Property Location: One Miramontes Point Road, Half Moon Bay, San Mateo County;  
APNs 066-092-780 and 066-092-770

Dear Mr. Kelly:

This letter is in response to your letters dated October 17, 2016 and November 2, 2016, and to memorialize our meeting that took place at the Ritz-Carlton on October 25, 2016, and your telephone conversation with Pat Veesart on November 14, 2016.

**Meeting**

Commission staff (Pat Veesart, Jo Ginsberg, Justin Buhr, Patrick Foster, and Alex Helperin) met with Ritz-Carlton staff (Brian McHugh, Kevin Kelly, and Greg Bush) on October 25, 2016. At that meeting there was general agreement amongst all of the participants that there is a continuing problem regarding the 25 Coastal Access parking spaces that are a requirement of the Permit and the Order. Ritz staff agreed that the kiosk has not been staffed at all times, that the sign at the Cañada Verde parking lot is missing, and that, unfortunately, it appears that staff has been providing the code in such a way as has resulted in the subject parking spaces being occupied by golfers and hotel guests rather than being available for public access parking as required by the Permit and the Order. Ritz staff also agreed that recent encounters with the public regarding conflicts about parking (mentioned in our September 30, 2016 letter) were not handled properly.

It was further discussed that one of the biggest problem regarding use of the Coastal Access parking spaces may be that some golfers (mostly locals who golf frequently) have figured out that there is free parking available in the garage and have managed to scam the system with clickers, or by getting the code from staff, thereby taking up the spaces that are legally reserved for the general public seeking access to the coast. There also appear to be other issues with these spaces being used for unauthorized purposes such as valet parking, hotel guest use, and other uses - all of which make these spaces unavailable for public access, and all of which are inconsistent with the Permit and the Order.

While we are more than willing to work with you to improve the situation, and appreciate your representations at our meeting that you are committed to complying with the Permit and Order, please again be reminded that this has been a long, continuing problem that has caused significant frustration and actual loss of public access for the very members of the public that these conditions were designed to benefit. In addition, these ongoing issues have resulted in a significant amount of Commission staff time being expended on trying to obtain compliance over a period of many years. The responsibility for compliance with the terms and conditions of the Permit and the Order lies with the Ritz, as we have explained in many past communications and in our recent meeting.

At our meeting in October, you and your staff discussed possible future improvements (such as a paved parking lot) at the end of Redondo Beach Road and linking a section of trail from there to the existing trail at the Ritz. This would increase public access by adding more parking and trails to the system that would be a segment of the California Coastal Trail. Commission staff's response was that we would be happy to see such a proposal and are available to meet and discuss this idea.

Ritz staff also talked about the difficulty in carrying out the Permit conditions, in that some people who want to go to the restaurant or play golf lie about what they are doing in order to access the free coastal parking and avoid a paying a valet parking fee. You explained that it's difficult for Ritz staff to question people's intentions or turn people down. Commission staff's response was that we appreciated this difficulty, but that ultimately it is the responsibility of the Ritz-Carlton to comply with the conditions of the Permit and the Order and that the Ritz needs to design a system that ensures compliance with same.

There was some discussion about possible solutions, or at least a better fix. Clearly, it is the responsibility of the Ritz to comply both with the terms of their Permit and the Order, and this has not been occurring. Also, clearly, the Coastal Commission could take other formal enforcement actions<sup>1</sup> to both penalize the Ritz and to provide a disincentive for future violations. However, you asked us not to do so at this time and you assured us that you would personally

---

<sup>1</sup> Such as assessment of penalties pursuant to §30821 and/or seek civil penalties pursuant to §30821.6(a).

ensure compliance with both the Permit and the Order in the future. In order to do so, you committed to take all necessary steps including the following:

- Coastal Access Passes will only be available at the kiosk, which will always be staffed from sunrise to sunset.
- Kiosk staff will give the public a pass, a brochure, and a card with magnetic strip to access the garage.
- The code on the cards will change daily.
- Access passes must be displayed, and staff will patrol the parking lot to make sure that every car parked in one of the 25 Coastal Access spaces has a pass displayed.
- Notes will be put on cars that do not display passes.
- Ritz staff will be informed that they are not to let people into the lot without the pass/card.
- Better signage, including signs that describe what the Coastal Access Spaces are for (non-commercial coastal access users) and are not for (hotel guests or those intending to golf or dine), will be installed.

At our October meeting, you handed me (Jo Ginsberg) a written response to our Notice of Violation letter (dated October 17, 2016). In that letter you confirmed that the kiosk will be manned during daylight hours, that regular employee training will occur with all employees (not just kiosk employees), that the 25 designated Coastal Access Spaces will be reserved during daylight hours for the public only and shall not be used by valets for hotel guests, staff parking, or anyone not specifically wishing to use the public access amenities, and that proper signage will erected in all locations required by the Permit and the Order - including at the Cañada Verde parking lot.

You promised to submit a firm proposal to fix the violations in 7 to 10 days of our meeting and you indicated that you are personally committed to fixing the problem and will do whatever it takes, spend whatever is necessary, will make it a top priority, etc.

### **Ritz-Carlton Proposal**

After the above-described meeting, we received your November 2, 2016 letter. In that letter you propose a variety of measures to ensure that all of the required 25 Coastal Access Spaces are available for Coastal Access Visitors only on a daily basis. In general, we think your proposal is on the right track, but we need to have mechanisms to ensure compliance with both the Permit and the Order, on an ongoing basis. In addition, we have a few concerns about your proposal, and need further clarification on some matters, as described below:

1. Your proposal is to require Coastal Access Guests to present a credit card and pay a \$20 deposit on a "clicker" to access the parking garage. As Pat Veesart explained to you when you spoke by telephone on November 14, 2016, that proposal is a non-starter. We cannot endorse a system that could exclude any prospective visitor who lacks a credit

card or other financial commitment. The access is specifically designed to be free, public access for all.

2. You indicate that "times of operation" will be from 8 am to sundown. However, in 2011 the Ritz agreed, in writing, that the kiosk would be staffed during daylight hours, which begins prior to 8 a.m. and generally continues until 10-15 minutes beyond sunset at this latitude.
3. As you discussed with Pat Veasart on the telephone, we would like to review the brochure/map that you propose to use and have it revised, if necessary, to comport with our comments.
4. You mention signage in several locations. Just to be clear, the Order already requires a revised signage plan to be submitted to Coastal Commission staff for review and approval and to be implemented "on and adjacent to hotel premises, as originally required by the Permit." According to the Order, the Ritz is required to place signs in the following manner:

- Signage must be placed adjacent to the 25-space area in the garage showing the way from the parking garage to the public access trails on the hotel premises.
- A sign must be posted on Miramontes Point Drive, adjacent to the existing 15-space lot for Cañada Verde Beach access, indicating that the lot is a public parking lot and that 25 additional public parking spaces are available within the Ritz-Carlton garage.
- An identical new sign is to be placed within the 15-car parking lot at Cañada Verde that indicates that 25 additional public parking spaces are available within the Ritz-Carlton parking garage.
- A new sign, or changes to the existing entrance sign, announcing the Ritz-Carlton Hotel must be erected near the vicinity of the intersection of Miramontes Point Road and Highway One, visible to motorists traveling on Highway One in either direction, regarding the free public parking spaces available within the Ritz-Carlton parking garage for public coastal access purposes.
- Revised signage is required for the Hotel Greeter Station; there shall be at least two signs placed at the Hotel Greeter station: one that can be viewed from the road as visitors approach the station and one that can be viewed by the driver of a vehicle that stops next to the station. The signs shall indicate the availability of the 25 public parking spaces in the hotel garage and shall describe how to obtain entry into the hotel garage.

We would like to review a signage plan that includes the above.

#### **Stipulated Penalties**

As you know, the Order states the following:



### **STIPULATED PENALTIES**

*Strict compliance with this Consent Order by all parties subject thereto is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained in this Consent Order, unless the Executive Director grants an extension, will constitute a violation of this Consent Order, and if the Executive Director determines that a violation of the Consent Order has occurred, Respondents will be liable for stipulated penalties in the amount of \$500 per day per violation. **Respondents shall pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties.** In light of the specific nature of these violations, if Respondents violate this Consent Order, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Order and for any Coastal Act violations occurring after the date of issuance of this Consent Order. (Emphasis added)*

Thus the Order provides for stipulated penalties of \$500 for each day of each violation of the Order. The Order states that the California Coastal Commission "hereby orders and authorizes Vestar-Athens/YCP II Half Moon Bay, L.L.C., ("Respondents"), their employees, agents, including the Ritz-Carlton Hotel Company, L.L.C., and contractors, and any persons acting in concert with any of the foregoing to cease and desist from 1) undertaking on the identified property any activity or development that is inconsistent with the CDP No. 3-91-71/1-95-47 as approved by the Commission; 2) undertaking on said property any development that requires a Coastal Development Permit, without obtaining such a permit, and 3) maintaining on said property any such development." Thus, a violation of the Permit is a violation of the Order and stipulated penalties can be assessed for violations of the Order and the Permit.

While we have not been able to fully monitor compliance for the vast majority of the time, a number of clear violations have been documented. Please consider this letter to be the Commission's written demand for stipulated penalties for violations of the Order, assessed as follows:

**April 2013** – When I visited the Ritz-Carlton, no one was present at the Greeters Station, thus no brochure was distributed, which is a violation of Order Section 1.3. In addition, public parking spaces were not made available, which is a violation of Order Section 1.1. We therefore assess stipulated penalties for two violations for a **total of \$1,000.**

**July 18, 2013** – We received a report from a member of the public who said he had visited the Ritz "several times" during 2013 and on two occasions he was sent to the Cañada Verde parking lot and was not offered a parking space in the hotel garage or a brochure, violations of Order Sections 1.1, 1.3, and 1.4. On the July 4th weekend of 2013, he was told the parking lot was full

and was only for hotel guests, also violations of Order Sections 1.1, 1.3, and 1.4. We therefore assess stipulated penalties for three violations on two separate days for a **total of \$3,000.**

**July 13, 2015** – A member of the public reported that he was prevented from accessing the coast by a guard who stopped him and told him no passes were available; he further reported that the parking manager was rude and unhelpful, and failed to provide correct parking and public access information, constituting violations of Order Sections 1.1, 1.3, and 1.4. We therefore assess stipulated penalties for three violations for a **total of \$1,500.**

**March 22, 2016** - The sign at Cañada Verde was reported as missing on March 22, 2016. This is a violation of Order Section 1.1(2), for which we assess stipulated penalties of \$500 for every day since then through October 25, 2016, which was when we had our meeting. At that time, we confirmed that the sign was still missing, as it had been since at least March 22, 2016. We therefore assess stipulated penalties for this violation for a **total of \$109,000** (\$500 per day for 218 days).

**May 14, 2016** – It was reported that there was no Greeter at the kiosk; thus, the visitor received no brochure and no access code. Further, the valet was unhelpful and gave misinformation, the manager was unhelpful, and the valets provided misinformation. In addition, misinformation was later provided, through Facebook, to the party who reported this situation. These are violations of Order Sections 1.1, 1.3, and 1.4. We therefore assess stipulated penalties for three violations for a **total of \$1,500.**

**May 18, 2016** – Pat Veesart visited the site and reported that the kiosk was unattended; thus, he received no brochure and no access code; and that there were cars parked in the designated Coastal Access spaces without passes; and that one such car had a valet tag. These are violations of Order Sections 1.1, 1.3, and 1.4. We therefore assess stipulated penalties for three violations for a **total of \$1,500.**

**May 25, 2016** - Pat Veesart visited the site and reported that no brochure was provided, no code given by the Greeter until asked, and no access passes displayed in cars parked in the designated Coastal Access Spaces. These are violations of Order Sections 1.1, 1.3, and 1.4. We therefore assess stipulated penalties for three violations for a **total of \$1,500.**

**June 1, 2016** - It was reported by Pat Veesart that there was no Greeter at the kiosk, so no brochure or access code were provided. He also reported that the valet didn't have the garage code, and that some cars parked in the designated Coastal Access Spaces had valet tags. These are violations of Order Sections 1.1, 1.3, and 1.4, for which we assess stipulated penalties of \$1,500. The same day Pat Veesart encountered a woman who separately experienced violations of Order Sections 1.1, 1.3, and 1.4, for which we assess additional stipulated penalties of \$1,500. Further, this woman reported that she'd been there a couple of weeks previously and had been told the garage was full and she could not park there, but when she went to the garage she found that it was not full, a violation of Order Section 1.4; she also received no brochure at that time, a

violation of Order Section 1.3, for which we assess stipulated penalties of \$1,000 for these two violations. We therefore assess stipulated penalties for a **total of \$4,000**.

**June 8, 2016** – It was reported by Pat Veesart that there was no Greeter at the kiosk, so no brochure or code were provided, and Mr. Veesart was unable to park in the garage. He witnessed cars parked in the designated Coastal Access spaces without passes. These are violations of Order Sections 1.1, 1.3, and 1.4. We therefore assess stipulated penalties for three violations for a **total of \$1,500**.

**July 4, 2016** – Pat Veesart visited the site and reported that no brochure was provided, and cars without passes were parked in the designated Coastal Access spaces, which are violations of Order Sections 1.1, 1.3, and 1.4. We therefore assess stipulated penalties for three violations for a **total of \$1,500**.

**August 7, 2016** – It was reported by a visitor that no brochure was provided, the parking lot was full, and that all cars parked in designated Coastal Access spaces had no passes displayed, violations of Order Sections 1.1 and 1.3. We therefore assess stipulated penalties for two violations for a **total of \$1,000**.

A conservative assessment of Stipulated Penalties for violations of the Order that you now owe totals **\$127,000** as of our meeting on October 25, 2016. Please be advised that this amount is now due and payable, that this letter is the Commission's written demand for same, and that payment is due **within 15 days of the date of this letter** (by January 6, 2017). Please make the check out to the California Coastal Commission and send it to my attention at: 45 Fremont Street, Suite 2000, San Francisco, CA 94105 by **January 6, 2017**, pursuant to the terms of the Order.

Please also be advised that if we cannot completely and expeditiously resolve the outstanding issues, as detailed in letters and discussions, more stipulated penalties may be assessed, or the Commission may pursue other means of enforcement. Please note that any new violations discovered from this point forth may also be subject to additional penalties.

Therefore, please do all of the following by **January 13, 2017**:

1. Please provide, for review and approval, a copy of the brochure that you intend to distribute to the public in order to comply with the Order;
2. Please submit, for review and approval, a signage plan, as detailed above, including deadlines for installation of all signs;
3. Please revise your proposal to exclude any requirement that members of the public be required to make deposits or provide credit information in order to access the Coastal Access Parking Spaces;
4. Please revise your proposal to indicate that the kiosk will be staffed daily during daylight hours, as the Ritz-Carlton previously agreed to do;

Kevin Kelly  
Ritz-Carlton Half Moon Bay  
Page No. 8

5. Provide a proposal for bi-monthly reporting on compliance with the Permit, Order, and this letter, to be submitted to Jo Ginsberg on the first of the month on alternate months;
6. Finally, once we have a revised proposal, signage plan, and brochure that Commission staff has reviewed and approved, you must implement same expeditiously and consistently and strictly comply with the Permit and the Order at all times in the future.

Let me close by saying that while we understand that you are new to this position, and we appreciate your expressions of dedication to address these issues, Commission staff remains frustrated by the repeated failures of the Ritz-Carlton to comply with the requirements of the Permit and the Order. There is a long and complicated history here and much staff and Commission time has been spent dealing with this matter. We have been assured by the Ritz-Carlton many times in the past that this matter will be resolved, and those assurances have been for naught. We would very much like to believe your assurances now and are willing to give you the opportunity demonstrate your sincerity. However, staff comes and goes at the Ritz-Carlton, and the same problems continue to occur with regularity. We strongly advise putting a system into place that works and that can be carried out by future Ritz staff/managers seamlessly.

Thank you for your cooperation and prompt attention to this matter.

Sincerely,



JO GINSBERG  
Enforcement Analyst

cc: Patrick Veesart, CCC, Northern California Enforcement Program Supervisor  
Lisa Haage, CCC, Chief of Enforcement  
Nancy Cave, CCC, North Central Coast District Manager  
Stephanie Rexing, CCC, North Central Coast Supervisor  
Linda Locklin, CCC, Coastal Access Coordinator  
Alex Helperin, Senior Staff Counsel  
Patrick Foster, CCC, Coastal Planner  
John Doughty, City of HMB Community Development Director  
SHC Half Moon Bay, LLC

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



February 2, 2018

Kevin Kelly  
General Manager  
The Ritz Carlton Half Moon Bay  
One Miramontes Point Road  
Half Moon Bay, CA 94019

**Re: Violation File No. V-2-16-0048**

Dear Mr. Kelly:

First, I would like to thank you for your continued engagement in the process to consensually and amicably resolve the above referenced violation case at The Ritz Carlton Half Moon Bay (the "Ritz"). As you are aware, there is a long history of Coastal Act violations at the Ritz concerning provision of the required public access amenities. In early 2017, headquarters enforcement staff began discussions with the Ritz to craft a consensual resolution that would both resolve the Ritz's accumulating liabilities and address the perpetual impediments to public access that occur at the site in violation of both the Permit and the Order. The main purpose of this letter is to discuss our recent discovery of continued violations of the Permit and the Order. Additionally, we have included some feedback on the location proposed by the Ritz for potential expansion of the Canada Verde parking lot.

**CONTINUING VIOLATIONS**

On January 9, 2017, Mr. Harris, consultant for the Ritz with California Strategies, LLC, and I had a telephone call to discuss the potential expansion of the Canada Verde coastal access parking lot.<sup>1</sup> On that phone call, Mr. Harris agreed to send Commission staff an aerial photo outlining the area the Ritz had identified as a potential location for the parking lot expansion.

The following day, January 10, 2017, Commission staff went to the Ritz to get a better on the ground feel for the area of the proposed parking lot expansion. While on site, a quick condition compliance check was performed and, as documented in further detail below, the Ritz was found to be operating in violation of the Permit and the Order. Based on this discovery, additional condition compliance spot checks were conducted to determine if the violations of January 10, 2017 were more of an anomaly or an indication of the perpetuation of a greater problem.

---

<sup>1</sup> As discussed in greater detail below, the expansion of the Canada Verde parking lot has been discussed as a potential element for inclusion in a settlement package as mitigation for the Coastal Act violations that have occurred at the Ritz and to help resolve the associated civil liabilities that have accumulated accordingly.

Unfortunately, the spot checks revealed that systematic Permit and Order condition compliance problems continue to occur:

*January 10, 2017, morning:* There were cars parked in the designated Coastal Access Parking without passes displayed and a car with a valet tag was parked in the Coastal Access Parking.

*January 10, 2017, evening:* The greeter booth was closed during daylight hours; thus, there was no access to the Coastal Access Parking. No brochure was provided.

*January 16, 2017, morning:* There were cars parked in the designated Coastal Access Parking without passes displayed and cars with valet tags were parked in the Coastal Access Parking. No brochure was provided.

*January 16, 2017, evening:* There were cars parked in the designated Coastal Access Parking without passes displayed and cars with valet tags were parked in the Coastal Access Parking. Upon arrival, the greeter stated that if my car remained in the Coastal Access Parking 30 minutes after sunset that it would be towed.

*January 24 2017, morning:* There were cars parked in the designated Coastal Access Parking without passes displayed. One such car was an electric car that was plugged into an outlet in the parking garage wall. No brochure was provided.

*January 24 2017, evening:* There were cars parked in the designated Coastal Access Parking without passes displayed. The electric car that was observed in the morning remained parked in the same spot plugged into the same outlet. No brochure was provided. The greeter said that a loss prevention officer would begin to patrol the garage 30 minutes after sunset and that if my car was still in the Coastal Access Parking that it would be removed. Upon arrival it appeared as though the greeter was packing up for the day. On the way off site a check was made to verify that the greeter booth remained open, as it was still daylight – it was closed.

This discovery of ongoing violations occurring at the Ritz is of extreme concern, particularly as the Ritz has assured Commission staff on numerous occasions, both verbally and in writing, that the Ritz is committed to complying with the terms of the Permit and the Order.<sup>2</sup> Furthermore, the Ritz ensured Commission staff that there will not be any further violations while the terms of a consent cease and desist order amendment are negotiated. Additionally, the diversity of the types of violations displays that there is not just one element of the current coastal access parking management plan implemented by the Ritz that is failing, but that a larger problem continues to exist with the current access management. Simply put, the violations are systematic. Moreover,

---

<sup>2</sup> As you are aware, the Coastal Commission has a limited staff and the ability to monitor daily for violations of the Coastal Act along the entire California coast simply isn't feasible. Given the pattern of consistent violation discovered here, we believe that violations are occurring here on a daily basis.

it highlights the need to bring this matter to a swift conclusion. To that end, Commission staff remains willing to work with you to resolve this violation consensually, but the time in which to do so is not indefinite.

### **CANADA VERDE LOT EXPANSION**

Throughout negotiations, the expansion of the Canada Verde parking lot has been discussed as a potential element for inclusion in a settlement package as mitigation for the Coastal Act violations that have occurred at the Ritz and to help resolve the associated civil liabilities that have accumulated. The inclusion of such expanded coastal access opportunities in this violation resolution would provide great benefit to both the general public and the Ritz.

In recent discussions the Ritz identified an area contemplated for acquisition and use in the proposed expansion. Commission staff was greatly encouraged upon hearing the news that an area for the expansion had been identified and that preliminary talks revealed that the current property owner of the potential expansion area is open to the idea of selling the land to the Ritz. On January 9, 2017, Mr. Harris sent Commission staff a photo that depicted the area that the Ritz was proposing for potential expansion.

After receipt and review of the photo, Commission staff decided that a visit to the site was necessary to get a better understanding of the full layout of the area. Site visits can be particularly helpful to be able to get a better understanding of potential development constraints like topography and habitat values, which can be difficult to ascertain from an aerial photo.

Unfortunately, the site visit revealed that the proposed location for the Canada Verde expansion lot is not a suitable development area. This area proposed by the Ritz has multiple constraints that make it far less than ideal for any future development, including, but not limited to: 1) much of the area is likely an environmentally sensitive habitat area ("ESHA"); 2) much of the remainder of the area that is not ESHA is likely in a buffer that precludes development within a designated area adjacent to ESHA; and 3) some of the area expands into an arroyo for which the topography would require an extensive amount of grading and/or fill. However, it does appear that there is land adjacent to the Canada Verde lot that does not contain such development constraints. Any future proposals for alternative parking locations should take into account the habitat values, topography and other such constraints that would limit the development potential of the land in question.

Finally, it is time to bring this matter to a close. It remains our preference to resolve this matter amicably through a consent cease and desist order amendment and we remain willing to work with you in that regard. We would like to get this matter before the Commission at the March 2018 hearing and bring this matter to a final resolution. In order to hit that target date, we will need to have the terms of an agreement in place several weeks prior to the hearing, which is set to take place the week of March 7-9. Commission staff will be available for daily discussions to help facilitate meeting that deadline and we remain optimistic that we will reach an agreement.

Kevin Kelly  
Ritz-Carlton Half Moon Bay  
Page No. 4

Thank you again for your dedication to resolving this matter and I look forward to talking with you soon. Please feel free to call me to discuss this matter further. My direct line is: (831) 427-4899.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Buhr', with a stylized flourish at the end.

Justin Buhr  
Headquarters Enforcement Analyst

cc: Lisa Haage, CCC, Chief of Enforcement  
Aaron McLendon, CCC, Deputy Chief of Enforcement  
Ted Harris, California Strategies, LLC



**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2 219  
VOICE (415) 904-5 200  
FAX (415) 904-5 400  
TDD (415) 597-5885



**SENT BY REGULAR AND CERTIFIED MAIL**  
**Certification No. 7006 2760 0005 5883 7426**

July 23, 2013

George Munz  
General Manager  
The Ritz-Carlton Half Moon Bay  
One Miramontes Point Road  
Half Moon Bay, CA 94019

RE: **Coastal Act Violation No. V-2-13-006** (Ritz-Carlton) and **V-2-13-017** (Ritz-Carlton), consisting of non-compliance with the terms and conditions of **Coastal Development Permit (CDP) No. 3-91-71<sup>1</sup>** (the Permit) and **Consent Cease and Desist Order CCC-03-CD-014** (the Order) concerning public parking and public access at the Ritz-Carlton Half Moon Bay

**Property Address:** One Miramontes Point Road, Half Moon Bay, San Mateo County; APNs 066-092-780 and 066-092-770

Dear Mr. Munz:

I must bring to your attention that in recent months the staff at the Ritz-Carlton Half Moon Bay (Ritz-Carlton) has not been following the approved protocol for dealing with visitors who wish to use the public access and parking amenities at the Ritz-Carlton. As you probably know, the Ritz-Carlton is required to provide public access and parking to visitors who wish to use the public amenities, as I will describe in detail below.

On April 14, 2013, at about 6 p.m., I visited the Ritz-Carlton with my husband and a friend, and there was no attendant on duty at the Greeters Station, although it was still daylight. Had I not been familiar with the procedures at the site, I would not have known what to do to obtain access

<sup>1</sup> CDP No. 3-91-71 was later renamed and renumbered as CDP No. 1-95-47

to the parking structure. Since I was familiar with the site, I drove to the entrance to the hotel and spoke with a valet, asking him for the garage code so I could park in the garage and use the public access amenities. The valet was perfectly polite, but did not give me the code, did not offer me a brochure, but told me to "just drive in the exit" at the garage. I was able to do this, but staff certainly did not follow the correct procedure for providing visitors with access to the public parking spots in the garage. This method of directing me to "drive in the exit" at the garage is neither appropriate nor safe.

On July 18, 2013 we received a complaint from a gentleman who has had great difficulty this past year in using the public access and parking amenities at the Ritz-Carlton. He described several visits during the past year when he drove to the Greeters Station and said he wanted to visit the beach and he was told to park at the Canada Verde parking lot, rather than being offered one of the designated public parking spots in the garage. The Greeter did not mention the designated coastal access parking spots in the garage, but after asking if he was checking in and discovering that he was not, directed the gentleman away from the Ritz-Carlton. The gentleman then did some research online, and discovered the Ritz-Carlton's public access requirements under the Order, and returned to the Ritz-Carlton once again. This time he specifically told the Greeter that he wanted to park in one of the designated public access spots in the garage, and he was thus given a brochure and the parking access code so that he could enter the garage.

This gentleman then attempted again during the July 4<sup>th</sup> weekend to visit the public access amenities at the Ritz-Carlton, this time with his family, and he asked the Greeter if he could park for coastal access and he was told that the garage was full, that the garage was only for guests, and that he needed to park somewhere else. The Greeter did not indicate whether or not the 25 spaces within the garage were occupied with other coastal access visitors. The Greeter seemed to suggest the spaces were all occupied by Ritz-Carlton guests, which would be a violation of the Permit and the Order. While the Greeter was not rude, he was not very helpful either, which was not in the spirit of the terms and conditions of the Permit and the Order, and the written agreements made by the Ritz-Carlton management concerning the provision of public access amenities.

We feel that these incidents are violations of the terms and conditions of the Permit, approved by the Coastal Commission (Commission) on October 10, 1991, and of the Order signed by Jeffrey Mongan of the Ritz-Carlton Half Moon Bay on April 9, 2009. Your greeting and valet staff should all be reminded of the requirements of the Permit and the Order. Arriving visitors should not have to use precise language regarding use of the 25 parking spaces. Anyone who approaches the Greeters Station and inquires about coastal access should be made aware of the availability of 25 parking spaces within the Ritz-Carlton garage. We have brought such violations to the attention of Ritz-Carlton management in the past, and we are concerned that there continue to be issues with public access. As we have indicated in our previous letter dated July 21, 2011, we feel strongly that we need to find a way to avoid any such issues in the future, and to reduce the time and effort required from us to ensure compliance with what was to be a

self-executing provision of both the Permit and the Order. It is also appropriate to remind Ritz-Carlton management of the Coastal Act violation history and the requirements of the Permit and the Order.

1. **Background.** As you probably know, the Permit, approved by the Coastal Commission on October 10, 1991, authorized construction of a 271-room luxury resort hotel complex, land division, and extension of Miramontes Point Road, and included the construction of significant public access improvements. The permittees were the Ritz-Carlton Hotel Company LLC (Ritz-Carlton), who had acquired the property from Half Moon Bay Resort Partners, and the City of Half Moon Bay (for that portion involving the extension of Miramontes Point Road to the hotel property.)

Through special conditions of the Permit, the Commission required the Ritz-Carlton to provide a variety of public access amenities that include a blufftop scenic overlook; a paved pedestrian access path along the length of the property; bike lanes connecting from Highway One to and along the property; public restrooms and viewing decks; a vertical accessway to Canada Verde Beach; public parking in two locations; and signage clearly marking for public use all access routes, public parking areas, Miramontes Point overlook, and public restrooms. The Commission specifically required the Ritz-Carlton to provide two different public parking areas, a 15-car lot located adjacent to the pathway to Canada Verde Beach south of the hotel premises, and 25 parking spaces either on hotel premises or at the end of Redondo Beach Boulevard, north of the hotel property. In November of 1998, the Executive Director approved the revised plans submitted by the Ritz-Carlton as being consistent with the Permit. In those plans, the Ritz-Carlton proposed and the Executive Director approved the provision of the 25 public parking spaces within the hotel parking garage (as well as the 15-car Canada Verde lot).

Starting in June of 2001, the Commission began receiving reports from the public that the Ritz-Carlton was denying the public use of the 25 parking spaces located in the hotel garage. In some instances, the public was not informed by the Ritz-Carlton staff that there was onsite public parking, and they were instead directed to the 15-space Canada Verde parking lot south of the hotel property, which is often filled to capacity during prime usage hours such as after work on weekdays and on weekends and holidays. In some instances, Ritz-Carlton staff informed members of the public that there was *no* public parking on the hotel site. There were reports of Hotel staff being rude to and even combative with persons trying to access the public access amenities at the Ritz. Commission staff repeatedly attempted to informally resolve the situation. Staff telephoned, wrote letters, and met with Ritz-Carlton staff several times regarding the problem of permit compliance. Despite assurances from the Ritz-Carlton staff that the problems would be resolved and cease, the problems continued with new reports occurring during 2003. After numerous unsuccessful attempts by staff to resolve the problems informally, the Executive Director finally notified the Ritz-Carlton by letter dated October 23, 2003 of his intent to commence a Cease and Desist Order hearing to ensure compliance with the Permit.

On April 14, 2004, the Commission issued the Order, after finding that the Ritz-Carlton had failed to provide the public the required access to the 25 spaces within its garage (copy of the Order enclosed). The Order required that the respondents immediately and on an ongoing basis ensure that 25 easily identified public parking spaces are readily available for public use on the hotel premises. The Order also required installation of additional parking signs in various designated locations, including revised signage at the Greeters Station; installation of mechanical devices to allow the public to self-park within the hotel garage; creation and distribution of a public access amenities brochure that identifies all public access trails, restrooms, overlooks, and parking areas; provision of an employee-training program for ensuring compliance with the public parking and other coastal access requirements of the Permit and the Order; and payment of \$50,000 in settlement monies in lieu of litigation for monetary penalty compensation for Coastal Act violations. The purpose of these requirements was to allow the public to access the parking spaces independently without having to solicit assistance from Ritz-Carlton valet staff stationed at the hotel entry or elsewhere on hotel premises to obtain entry. The Order specifically states that the Respondents' employees shall be required to inform anyone who makes any inquiry about trails, the beach, coastal access, the blufftop overlook, or parking, about the onsite, free public parking within the hotel garage.

The Consent Order also contains a provision for Stipulated Penalties. The Order states that strict compliance with the Consent Order is required, and that failure to comply with any term or condition of the Order will constitute a violation of the Order, and if the Executive Director determines that a violation of the Order has occurred, Respondents will be liable for stipulated penalties in the amount of \$500 per day per violation. Respondents are required to pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties.

Subsequent to issuance of the Order, the Ritz-Carlton submitted to Commission staff for review and approval a copy of a brochure for distribution to the public that identified available public access on the Ritz-Carlton property. As approved by the Commission's Executive Director, the four-page fold-out brochure, called "Visitors' Guide," included an 8 1/2" x 11" map of the Coastside Trail with accompanying text, which identified and described all available public parking, picnic areas, and restrooms at the subject site. This Visitors' Guide was to be distributed to all members of the public stopping at the Greeter's Station who wished to use the public access amenities at the subject site.

Additionally, a system was implemented such that members of the public wishing to park in the 25 designated Coastal Access parking spaces within the hotel's garage would receive the access code for the garage from staff at the Greeter's Station, and would thus be able to gain entry to the garage without needing further assistance from hotel staff stationed elsewhere on hotel premises. This necessitates the staffing of the Greeters Station during daylight hours.

On November 7, 2005, Commission staff sent to Paul Ratchford, then General Manager for the Ritz-Carlton Half Moon Bay, a letter confirming that the Ritz-Carlton had fully complied with

the terms and requirements embodied in the Commission's Order. The Ritz-Carlton agreed to the Order's requirements and fully met all terms of the Order as of that time.

However, in a letter sent dated March 9, 2007 to Peter Ells, then General Manager for the Ritz-Carlton, and Mike Nelson, Vice President for Asset Management, I noted that since November 7, 2005, the Commission had received several new reports from members of the public who had had difficulty with parking in the designated Coastal Access parking spaces within the hotel's garage. The complaints included people having not received the approved public access brochures; being once again directed to the offsite Canada Verde parking lot by the Greeter; and being treated rudely by the Greeter. Because of these continued incidents of non-compliance with the Order, comprising five Coastal Act violations, the Commission's Executive Director assessed the Ritz-Carlton a stipulated penalty of \$2,500.

Mr. Ells sent a letter of response dated March 19, 2007, listing the steps that had been taken to remedy the complaints described in my letter of March 9, 2007 and including a check for the assessed stipulated penalties. He indicated that the approved four-page Visitors' Guide would be distributed to anyone indicating an interest in using the public access amenities at the Ritz-Carlton, and that all employees involved with the Greeters Booth would go through training to make sure they are aware of their duties and responsibilities concerning dissemination of information to the public about the public access amenities at the Ritz-Carlton.

In a letter dated December 30, 2010, Ms. Yunhee Lee of EAM Room Operations at the Ritz-Carlton proposed some changes concerning operation of the Greeters Station. Ms. Lee proposed that the Greeters Station be manned only on days when the hotel was to have at least 80% occupancy; that existing signs near and at the Greeters Station be modified to indicate that Coastal Access Parking is available in the garage, and that visitors should obtain the entry code from the Valet; and that the Ritz-Carlton Doorman or Golf Links Valet would give out the access code and the approved Visitors' Guide to those persons indicating an interest in using the public access amenities.

I sent a letter of response dated February 10, 2011, in which I indicated that the proposed new system would not be consistent with the conditions and intent of the Permit or the Order. I indicated that because there had been so many problems in the past, which resulted in the Commission issuing a Cease and Desist Order to the property owners, and, later, assessing stipulated penalties against the property owners for violations of that Order, that Commission staff were loath to change a system that appeared to be working, and which was designed to address prior problems and violations of the permit conditions. The system suggested by Ms. Lee, which would necessitate a visitor needing to drive to the main door to speak with a Hotel valet or try to find a valet for the Golf Course, seemed potentially confusing and would add unnecessary complexity to the process. I therefore advised that the current system remain in place; that is, that the Greeters Station be manned during all daylight hours, with a trained

Greeter present to distribute the required Visitors' Guide, provide the access code for the parking garage, and direct the visitor to the garage.

In July of 2011, we again received a complaint, this time from a visitor named Jonathan Leblang, who described in detail the treatment he and his family received when visiting the Ritz-Carlton Half Moon Bay on Sunday, July 3, 2011. There was no attendant on duty at the Greeters Station when Mr. Leblang and his family arrived around 9:00 a.m. on July 3, and when Mr. Leblang requested the garage code from a valet located at the entrance to the Ritz-Carlton, the valet was rude and unhelpful, and directed Mr. Leblang to the Canada Verde Beach public parking lot located outside of the Ritz-Carlton grounds. The valet also told Mr. Leblang that the valets don't have the codes to access the hotel parking structure; that guests are not allowed to drive themselves into the parking structure; that the hotel was going to be busy and would need the spaces; and that the spaces were already full. Then the valet told Mr. Leblang that "we provide those spots as a courtesy to the public and don't have to let you park there."

Mr. Leblang described how he and his family were directed to park behind the tennis courts, and then, as they passed the parking structure where the public parking spaces are located, they saw that all of the coastal parking spaces were empty. Mr. Leblang's wife then returned to the valet area near the entrance to the hotel and eventually was given the garage access code, only after her repeated requests got the attention of other arriving guests.

Mr. Leblang also reported that upon returning to the garage for their departure about four hours later, the garage was full and valets were double-parking cars in the aisle of the garage, and there were valet hang-tangs hanging from some of the cars parked in the designated coastal access parking spots. He noted that he observed a valet pulling in a guest car into the public parking space that he vacated.

In response to this, I sent a letter dated July 21, 2011 to then General Manager Bernd Kuhlen, describing the Coastal Act violations that had taken place and assessing a stipulated penalty in the amount of \$1,500 for violations of the Order. I received a letter of response dated August 31, 2011, from Yunhee Lee, Executive Assistant Manager, Room Division, confirming in writing that a) the Greeters Booth will always be manned during daylight hours and that there is explanatory signage at all times indicating that public access parking is available in the parking garage for those wishing to access this amenity, b) that employee training will continue to occur for all employees so that they are aware of their duties and responsibilities regarding the information about the public access amenities at the Ritz-Carlton, including the public access parking; and c) a check in the amount of \$1,500 for the Coastal Act violation has been issued.

Since that time until only just recently, we had not received any complaints about use of the public access amenities at the Ritz-Carlton. However, as we have noted in previous correspondence, we have no formal way of monitoring compliance and we realize that very few coastal users are knowledgeable and sophisticated about their rights and about the terms and

conditions of the Permit and the Order issued for the site, and are thus more likely to inquire about beach access instead of specifically requesting access to the 25 spaces in the garage. Most likely not all visitors who are turned away contact the Coastal Commission; thus, we conclude that it is certainly possible that there may have been other times when members of the public had difficulty obtaining public access parking, but did not contact us.

**2. Alleged Coastal Act Violations.**

- a. When I visited the Ritz-Carlton on April 14, 2013, the Greeters Station was unattended. While it was around 6 p.m., it was still daylight, and the Greeters Station is supposed to be attended during all daylight hours so that the Greeter can provide a brochure and the garage access code to visitors who wish to use the public access amenities at the Ritz-Carlton.
- b. On July 18, 2013, we received a complaint from a gentleman who had visited the Ritz-Carlton several times in the past year, and when he approached the Greeters Station on two of these occasions, he was told to park at the 15-space Canada Verde parking area, and was not offered one of the designated coastal access parking spaces in the garage nor provided with a brochure. During the recent July 4<sup>th</sup> weekend, he was told the parking lot was full and was only for hotel guests.

While the provisions of the Order allow us to assess stipulated penalties in the amount of \$500 per day per violation, at this time we are not assessing any penalties for the two referenced violations of the Order. We do, however, want to point out that there are continuing problems concerning the public's ability to utilize the public access and parking amenities at the Ritz-Carlton, and we ask that you address these issues in writing. Please send a written response by August 22, 2013.

**3. Resolution of Alleged Coastal Act Violations.** To resolve the alleged Coastal Act violations described above, the following steps should be taken:

- a. Please ensure that the Greeters Station is always manned during daylight hours, and that there is explanatory signage at the Greeters Station at all times indicating that public access parking is available in the parking garage for those persons wishing to use the public access amenities at the site. Please confirm in writing by August 23, 2013 that this is the policy of the Ritz-Carlton and that it shall continue to be consistent with the Permit and the Order.
- b. Confirm in writing that regular employee training will continue to occur such that *all* employees, not just those who will work at the Greeters Station, are aware of

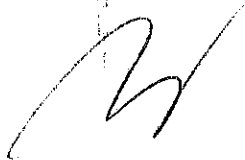
their duties and responsibilities concerning dissemination of information about the public access amenities at the Ritz-Carlton, including the available coastal access parking in the hotel garage and the public access trails. Greeters should be prepared to distribute the Visitors' Guide to all persons expressing an interest in going to the beach and therefore using public access amenities at the Ritz-Carlton. Valets and other staff should also be prepared to respond appropriately to members of the public seeking to use the public access amenities at the Ritz-Carlton, and should be prepared at all times to provide copies of the Visitors' Guide to such persons and also to provide the garage access code to such persons. Please submit by August 23, 2013 such written confirmation and an indication of steps taken to avoid repetition of the problems outlined above.

Failure to meet this deadline may result in more formal action by the Commission to resolve the Coastal Act violations that may exist on the property. The formal action could include a civil lawsuit and imposition of monetary penalties, pursuant to Coastal Act sections 30810, 30820, 30821.6, and 30822.

Enclosed for your information are copies of the Permit and the Order. If you have any questions concerning the alleged Coastal Act violations, please contact me, **Jo Ginsberg**, at **415-904-5269** or in writing at the letterhead address.

Once again, we regret this situation and would like to work with you to ensure that it does not reoccur in the future. Thank you for your cooperation.

Sincerely,



JO GINSBERG  
Enforcement Analyst

Enclosures: Coastal Permit No. 3-91-71/1-95-47  
Consent Cease and Desist Order No. CCC-03-CD-014

cc (w/out enc.): Yunhee Lee, Ritz-Carlton  
Linda Locklin, CCC, Coastal Access Program Manager  
Nancy Cave, CCC, Northern California Enforcement Program Supervisor  
Madeline Cavalieri, CCC, District Manager  
Stephanie Rexing, CCC, Coastal Planner





August 31, 2011

California Coastal Commission  
Attn: Jo Ginsberg  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Dear Ms. Ginsberg:

We are in receipt of your letter dated July 21, 2011. As per your request we are confirming in writing with regards to the Resolution of Alleged Coastal Act Violations.

A. We will ensure that the Greeters Booth is always manned during daylight hours and that there is explanatory signage at all times indicating that public access parking is available in the parking garage for those wishing to access this amenity.

B. We confirm that employee training will continue to occur for all employees so that they are aware of their duties and responsibilities regarding the information about the public access amenities at the Ritz-Carlton, including the public access parking.

C. A check in the amount of \$1,500 for the Coastal Act violations has been issued on August 18, 2011, reference number 07181657.

Warm regards,

Yunhee Lee  
Executive Assistant Manager,  
Rooms Division



August 22, 2013

Ms. Jo Ginsberg  
Enforcement Analyst  
California Coastal Commission  
45 Freemont Suite 2000  
San Francisco CA 94105-2219  
Fax - 415-904-5400

Dear Mr. Ginsberg:

Your letter dated July 23 has been reviewed and discussed in detail with my team. Please let me apologize for the confusion and miscommunication that has occurred over the past few months. We take our responsibility to provide coastal access to our local visitors very seriously and look forward to improving this immediately.

The following steps are currently in progress:

- Regular training for all employees will continue to occur which will include the dissemination of information about the public access amenities at the Ritz-Carlton including available coastal access parking in the hotel garage and public trails.
- The Visitors Guide and garage access code will be distributed to all persons expressing interest in going to the beach and therefore using public amenities at the Ritz-Carlton.
- The Greeter's Booth will be staffed as specified, from sun up to sun down.
- In the event a visitor arrives outside of this timeframe, we will improve the signage so the access code can be provided by the doorman or valet parkers.
- New system is being implemented that will provide cards to be put on the dashboards of those cars who are directed to the coastal access spaces.
- Daily and nightly reviews of the spaces will be conducted by the resort staff to ensure the spaces are occupied properly.

Ms. Ginsberg, thank you again for your time and attention to this matter. We will be sure to keep you abreast of our progress and are open to any comments and suggestion you or the Commission have for us. Please feel free to contact me at any time if I can be of service to you regarding this issue.

Best Regards,

Maria Martinez, Executive Assistant Manager

CC: George Munz -- General Manager



Exhibit 5

CCC-03-CD-14-A &  
CCC-19-AP-01

Page 10 of 10