

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV



F13b

Filed: 8/25/2020
Action Deadline: 11/2/2020
Staff: JKN-SF
Staff Report: 9/22/2020
Hearing Date: 10/9/2020

STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal Number: A-2-HMB-20-0048
Applicant: City of Half Moon Bay
Appellants: Commissioners Linda Escalante and Caryl Hart
Local Decision: City of Half Moon Bay Coastal Development Permit Application Number PDP-20-040, approved by the City of Half Moon Bay Planning Commission on July 14, 2020
Project Location: Public parking lot fronting Poplar Beach at 100 Poplar Street, Half Moon Bay, San Mateo County
Project Description: Implement a parking fee program at the public Poplar Beach Parking Lot
Staff Recommendation: **Substantial Issue Exists**

IMPORTANT HEARING PROCEDURAL NOTE

The Commission will not take testimony on this “substantial issue” recommendation unless at least three Commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally (and at the discretion of the Chair) limited to three minutes total per side. Only the Applicant (in this case the local government) and persons who opposed the application before the local government (or their representatives) shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a

substantial issue, the de novo portion of the hearing will occur at a future Commission meeting, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

On July 14, 2020, the City of Half Moon Bay (City) approved a coastal development permit (CDP) to restructure parking fees at the Poplar Beach Parking Lot in the City of Half Moon Bay. Specifically, the City proposes to charge daily fees of \$10 to \$15 (the latter for larger vehicles) with resident-only passes available for 9-month (\$90) and annual (\$165) increments and would also accept the State Parks low-income Golden Bear Pass. Although the City currently charges fees for parking in the lot (\$2 to \$3 per hour/\$10 to \$15 maximum per day, the latter for larger vehicles, and a \$103 resident-only annual pass), it is not clear that the existing parking fees are authorized by a valid CDP. If authorized, then the application is to increase fees; if not, then the application is to charge fees for what was heretofore free parking.

The Appellants contend that the City-approved project raises City of Half Moon Bay Local Coastal Program (LCP) and Coastal Act conformance issues with respect to public recreational access requirements. Both the LCP and Coastal Act require that public recreational access opportunities be provided, protected and maximized, particularly in relation to lower cost opportunities, and that parking be distributed in such a way as to avoid overcrowding of any one area. Parking fees are well known for their potential to significantly adversely impact public recreational access users, especially those least able to afford such fees, and, thus, the Coastal Act and LCP require that such projects be thoughtfully evaluated for consistency.

In this case, as alluded to above, it is not clear that the City appropriately analyzed the fees because the City characterized the project as modifying an *existing* fee structure, whereas it appears that no prior CDP authorized charging fees in the first place. In addition, the City's approval did not address impacts from the fees on public access users and parking demand, especially as it relates to non-local beach users and those who might need to seek other Poplar Beach parking options because they can't afford or are unwilling to pay the fees. In addition, although the City did allow Golden Bear Passes to be honored, other sorts of potential ways of helping those least able to afford parking were not evaluated or applied (e.g., reservation of a portion of the parking supply for free short-term parking, free unrestricted parking nearby, and ongoing monitoring to determine how the fees are impacting use and users of the parking lot), and, rather, the program provides longer term pass options that are limited to City residents only. In addition, the fees as proposed here (e.g., \$10 to \$15 per day to park one's vehicle) are not minimal or insubstantial.

In short, the City's approval of a CDP for this project raises significant questions and issues about who gets to go to and enjoy Poplar Beach, especially with regard to inland visitors, and whether this unfairly promotes such access to those of means and those who live in Half Moon Bay at the expense of those who live elsewhere and can't afford such fees. This is especially the case for inland visitors to the coast who have no choice

but to drive to the coast and must park their vehicle to be able to enjoy this public resource.

Accordingly, staff recommends that the Commission find a **substantial issue** with respect to the City-approved project's conformity with Coastal Act and LCP public recreational access requirements, and that the Commission take jurisdiction over the CDP application for the proposed project. Staff believes that there are questions and issues here that are appropriate for the Commission to discuss and debate, including the effect of the proposed fees on visitors not fortunate enough to live in Half Moon Bay or its beach neighborhoods, and that a substantial issue finding is appropriate in this case. The single motion and resolution to do so is found below on page 5 below.

TABLE OF CONTENTS

I. MOTIONS AND RESOLUTIONS..... 5
A. SUBSTANTIAL ISSUE DETERMINATION 5

II. FINDINGS AND DECLARATIONS..... 5
A. PROJECT LOCATION AND BACKGROUND 5
B. CITY OF HALF MOON BAY APPROVAL 7
C. APPEAL PROCEDURES..... 8
D. SUMMARY OF APPEAL CONTENTIONS 9
E. SUBSTANTIAL ISSUE DETERMINATION 9

APPENDICES

Appendix A – Substantive File Documents

Appendix B – Staff Contacts with Agencies and Groups

EXHIBITS

Exhibit 1 – Location Map

Exhibit 2 – City’s Notice of Final CDP Action

Exhibit 3 – Appeal Document

Exhibit 4 – Applicable LCP and Coastal Act Provisions

Exhibit 5 – City memo to Planning Commission, dated July 14, 2020

I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the CDP application for the proposed project under the jurisdiction of the Commission for de novo hearing and action. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in a substantial issue finding and a future de novo hearing on the CDP application and adoption of the following resolution and findings. Passage of this motion will result in a finding of no substantial issue, and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion to find substantial issue: *I move that the Commission determine that Appeal Number A-2-HMB-20-0048 raises **no substantial issue** with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act, and I recommend a **no** vote.*

Resolution to find substantial issue: *The Commission hereby finds that Appeal Number A-2-HMB-20-0048 presents a substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and the public access and recreation policies of the Coastal Act.*

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Project Location, Background and Description

The proposed project is within the municipal public parking lot located at 100 Poplar Street, at the western terminus of Poplar Street in the City of Half Moon Bay in San Mateo County. The City-owned public parking lot is paved, provides approximately 74 spaces, 4 of which are ADA-accessible, and includes an equestrian parking area, a pad area with portable toilets, trash receptacles, and a bike tuning station. There is direct access to the beach from the parking lot via a stepped concrete landing and wooden steps. There is currently signage in the lot for visitors identifying applicable fees and one electronic parking kiosk where fees are paid (via credit or debit cards).¹ The lot is the only development in an area surrounded by the Poplar Beach blufftop park open space and is adjacent to the California Coastal Trail and the popular Poplar Beach (see location information in **Exhibit 1**). The parking lot site is zoned Open Space – Passive (“OS – P”) in the LCP’s Implementation Plan (IP), which allows for public parking lots to support access to the beach and trail system, and is designated Regional Public

¹ The parking kiosk was authorized by City CDP 007-11 on March 31, 2011 to facilitate fee collection, but the fees themselves preceded the kiosk and don’t appear to have ever been authorized by a CDP.

Recreation per the LCP's Land Use Plan (LUP), which allows for public access and recreation uses.

The parking lot is located in the southern half of the City and is the only beach parking lot in the immediate vicinity. Additional public beach parking lots are located to the north fronting California Department of Parks and Recreation's (State Parks) Half Moon Bay State Beach, including approximately one mile away at Francis Beach, two miles away at Venice and Dunes beaches, and 2.5 miles to the north at Roosevelt Beach, all of which are owned and operated by State Parks. The State Parks day use parking lots all charge a \$10 per day flat fee rate payable using self-serve kiosks with cash only or using cash or credit card at the entry kiosks when Park staff are present.² The State Parks day use parking lots also accept the low-income Golden Bear Pass (\$5 annually for California residents receiving Supplemental Security Income, aid under CalWORKS, or over 62 years of age with income limitations as specified by State Parks) and the Golden Poppy Pass (\$125 annually for vehicle day use at many premier "destination" parks).

Additional City parking lots can be found south of the subject lot, including one mile to the south at Smith Field (a 0.5-mile walk to the beach along an unpaved trail system), two miles to the south at Redondo Beach (an unpaved parking lot with informal access to the beach), and three miles to the south at the Miramontes Point beach parking lot (a paved lot with a 0.2-mile walk to the beach with beach access via a staircase), all owned and operated by the City with no day use fees. Aside from these public parking lots, visitors can access the beach, including Poplar Beach, via the Coastal Trail or by parking elsewhere in the City and walking or biking in through the adjacent neighborhoods. Street parking in the immediately adjacent neighborhood is limited, and there are "No Parking Anytime-Tow Away" signs posted along Poplar, as well as in the residential neighborhoods about a quarter of a mile inland.³

See site location map in **Exhibit 1**.

The City-approved project would charge/restructure daily parking fees at the Poplar Beach parking lot. Currently, the City charges an hourly rate of \$2 per hour (\$10 maximum per day) for automobiles and \$3 per hour (\$15 maximum per day) for horse trailers and vehicles over 20-feet in length and allows residents to purchase a yearly parking pass specific to this lot for \$103. The City-approved CDP would charge/increase daily fees of/to \$10 per day (for vehicles shorter than 20-feet in length) and \$15 per day (for horse trailers or vehicles longer than 20-feet in length), increase the cost of annual resident-only parking passes to \$165/year, add a new 9-month off-peak resident-only

² The City argues that they are simply charging something similar to what State Parks charges for parking nearby. However, it is not clear whether these State Parks parking fees were ever permitted either, and Commission staff is researching that issue as part of this matter as well.

³ Similarly, it is not clear that these on-street parking restrictions inland of the Poplar Beach parking lot were ever permitted, and Commission staff is also researching that issue as part of this matter as well.

annual parking pass for \$90/off-peak period, and accept the State Parks low-income Golden Bear Pass, which costs \$5 annually.

B. City of Half Moon Bay CDP Approval

As part of the City and Coastal Commission's ongoing local development review coordination process, Commission staff sent comments to the City regarding the proposed CDP expressing concerns related to its consistency with Coastal Act and LCP provisions regarding public recreational access, including the requirement that such access opportunities be protected and maximized, particularly lower cost opportunities. Specifically, on June 26, 2020, Commission staff sent an email stating that the proposed annual fees seemed too high and that the lack of options for lower-income visitors, in particular, was of concern. Commission staff requested in this communication that the City address such user needs, analyze how the fees would potentially displace users unwilling or unable to pay, where those users may go instead, and what the potential impacts of this may be. Commission staff also indicated that beach users (not limited to residents) should be informed and included in this discussion, communicated that the lack of prior CDP authorization for the fee amounts would be considered a violation by the Commission, and stated that the analysis would likely need to be treated as if this were the first time fees were being considered for this parking lot. In a subsequent email on July 13, 2020, Commission staff reiterated the problem regarding the lack of prior authorization for parking fee amounts and the annual resident-only passes at this parking lot and expressed that the increase in fees would be considered a change in intensity and density of use at the site.

On July 14, 2020, the City of Half Moon Bay Planning Commission approved a CDP for the proposed fee increases and restructuring of the annual permits; and the acceptance of the State Parks low-income Golden Bear Pass at the lot was added to address Coastal Commission staff's concerns. Notice of the Planning Commission's final action on the City CDP was received in the Coastal Commission's North Central Coast District Office on August 12, 2020 (**Exhibit 2**). The Coastal Commission's ten-working day appeal period for this action began on August 13, 2020 and concluded at 5 p.m. on August 26, 2020. One appeal was received during that time (see appeal document in **Exhibit 3**).

The City argues that the appeal period had run by the time the appeal was received and, thus, that the City's action in this matter is final. The basis for the City's argument is that City staff sent the final action notice via certified mail, and the certified mail receipt shows that the notice was signed for on August 3, 2020. While true, the notice was not actually received by the Commission until August 12, 2020. In fact, it appears that a lobby guard for the building in which the Commission's North Central Coast office is located in San Francisco signed for the mail on August 3, 2020, which is not the way in which certified mail and receipts are supposed to work. Rather, certified mail is sent to a specific recipient, and that specific recipient is meant to sign for the mail, thus ensuring the sender that that recipient received the mail. That did not occur here.

While it is unfortunate that the certified process failed here, the fact is that the Commission did not receive the notice until August 12, 2020. Per the Commission's

regulations, the appeal period only commences on “the date of receipt by the commission of the notice of the local government’s final action” (Title 14 California Code of Regulations Section 30603(c)). The requirement is particularly important for final local action notices, as the public may only be aware of an appealable permit once Commission staff provides notice of such approvals. If the City’s view were accepted, then the appeal period could run on locally-approved permits before the public is even aware of the local government’s action. This would defeat the purpose of the notice and the appeal period required by the Coastal Act. Thus, as required by the Commission’s regulations, receipt of the notice in the Commission’s office on August 12, 2020 started the appeal period, resulting in an appeal period of August 13 – 26, 2020. The appeal was received on August 25, 2020, and is properly before the Commission.

C. Appeal Procedures

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

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal contentions do not show that the City’s action raises substantial LCP conformity issues. In other words, the Coastal Act requires the Commission to presume that a substantial issue exists, unless the Commission decides to take public testimony and vote on the question of substantial issue. Since staff is recommending substantial issue on the subject project, unless three or more Commissioners object to that recommendation, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its de novo review at a subsequent meeting.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will be allowed to testify to address whether the appeal raises a substantial issue, with some restrictions. The only persons qualified to testify before the Commission on the substantial issue question are the applicant (in this case the local government), appellants, and persons who opposed the application before the local government (or their representatives). Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

Unless it is determined that there is no substantial issue, the Commission will schedule the de novo portion of the hearing, at which time it will review and consider the merits of the proposed project. Any person may testify during the de novo CDP determination stage of an appeal. Under Section 30604(b), if the Commission reviews a project de novo, the Commission must find that the proposed development is in conformity with the certified LCP in order to approve the CDP. In addition, if a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) requires a specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the first public road and the sea, and therefore a finding of consistency with Coastal Act public access and recreation policies would be required if the project were to be approved by the Commission.

D. Summary of Appeal Contentions

The Appellants contend that the City-approved project raises Coastal Act and LCP conformance issues with respect to public recreational access. Specifically, the Appellants contend the approved development raises questions of LCP and Coastal Act consistency because (1) it is not clear what the legally-established baseline is for “increasing” parking fees since it is unclear from the record that the existing parking fees and changes to such fees were authorized through a CDP; (2) the City’s CDP action did not adequately analyze the potential impacts of parking fees on public recreational access users, especially those least able to afford fees such as those proposed by the City, including the compounding effect of such fees throughout the City; and (3) the City fee structure provides inequitable access benefits for residents. See **Exhibit 3** for the complete appeal document.

E. Substantial Issue Determination

Substantial Issue Background

The Coastal Act requires that the Commission hear an appeal unless no substantial issue exists with respect to the grounds on which the appeal was filed under Section 30603. In doing so, Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue: (1) the degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; (2) the extent and scope of the development as approved or denied by the local government; (3) the significance of the coastal resources affected by the decision; (4) the precedential value of the local government’s decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues, rather than those of regional or statewide significance. The Commission may, but need not, assign a particular weight to any particular factor and may make a substantial issue determination for other reasons as well. In this case, for the reasons discussed further below, the Commission finds that the City’s approval of a CDP for the project raises a substantial LCP and Coastal Act conformance issue.

Substantial Issue Analysis

The Appellants contend that the City's approval of a CDP for the proposed development raises a series of questions and issues regarding LCP and the Coastal Act public recreational access consistency. As a primary matter, while the City has characterized its action as modifying *existing* parking fees, it does not appear that the parking fees currently being charged at the Poplar Beach parking lot, as well as the resident-only annual pass option, have ever been authorized by a valid CDP action. In fact, the available evidence appears to indicate that while the City took various non-CDP actions to initiate parking fees at this beach parking lot in 2009 (and changed them in 2011),⁴ the only CDP was for installation of a payment device to help in collecting the fees that had already been instituted without a CDP (City CDP 007-11 in 2011). Thus, it appears that the fees themselves are not permitted, and, thus, it is inaccurate to analyze the project as increasing or modifying fees, but rather it needs to be evaluated in terms of a proposal to charge fees for the first time at a site where the CDP baseline is free parking (i.e., because the baseline for considering proposed development is the legally-established baseline, including in terms of required CDPs). This issue alone raises a substantial LCP and Coastal Act issue that warrants Commission review of this project through a de novo analysis.

With respect to the public recreational access issues that are most relevant in this appeal, the California Constitution mandates the protection and enhancement of public access to and along California's coastline. The Coastal Act redoubles these protections, mandating that public recreational access opportunities to and along the California coastline be maximized (see Coastal Act Section 30210 in **Exhibit 4**). Coastal Act Section 30210's direction to maximize access represents a higher threshold than to simply provide or protect such access. Under Section 30210, the Legislature has declared that it is not enough to simply provide public access to and along the coast, and it is not enough to simply protect public access; rather such public access must also be *maximized*. This terminology distinguishes the Coastal Act and provides fundamental direction to projects along the California coast that raise public access issues.

The City's certified LCP reflects the Coastal Act (and directly incorporates the Act's public access provisions into its own policies), and both require that public recreational opportunities be provided, protected and maximized, particularly in relation to lower cost opportunities, and that beach access parking areas be distributed in such a way as to appropriately distribute users (including Coastal Act Sections 30210, 30212.5 and 30213, which are directly incorporated into the LCP through LUP Policy 1-1 and LCP

⁴ City Council Resolution No. C-72-09, adopted on August 4, 2009, established Poplar Beach parking user fees of \$10 per day for passenger vehicles, \$15 per day for horse trailers, and \$50 per year for annual passes for Half Moon Bay residents, where the revenue was intended to be used to improve the parking lot and surrounding area. City Council Resolution C-10-11, adopted on March 1, 2011, amended such fees, and City Council Resolution C-26-11 in May 2011 further amended the program to allow a pro-rated annual resident pass (i.e., the cost of the pass diminishes on a quarterly basis throughout any given year). Ultimately, through these non-CDP actions, the City began charging parking fees in 2009, and is currently charging \$2 per hour or \$10 per day for vehicles, \$3 per hour or \$15 per day for horse trailer or vehicles longer than 20 feet, and \$50 per year per vehicle for the annual pro-rated resident-only pass.

Policy 2.2). See **Exhibit 4** for full text of applicable LCP and Coastal Act public recreational access provisions.

Parking fees can have a significant adverse impact on public recreational access users, especially those least able to afford such fees. Specifically, fees place a burden on visitors who must drive to access the beach, which includes those from more inland locales not fortunate enough to live within walking distance. Such fees can fall disproportionately on those least able to afford them, leading to a diminution of their ability to access the coast at all, if they cannot afford to park at the beach. Such fees may also force people to pursue free parking options including the other City parking lots that are either unpaved with informal beach access or a further walk to the beach, and that make beach access more difficult. These kinds of alternative parking arrangements can have their own impacts, including changing ways in which users can or do access the coast (e.g., overloading areas not conducive to or adapted for such parking, creating 'volunteer' trails in inappropriate areas (e.g., ESHA), etc.). Further, fees such as those proposed here (e.g., \$10 to \$15 per day to park one's vehicle) are not minimal or insubstantial. In short, this project raises significant questions and issues about who gets to go to and enjoy Poplar Beach, especially for inland visitors, and whether this inequitably promotes such access to those of means and those who live in Half Moon Bay at the expense of those who live elsewhere and can't afford such fees.

In response to these concerns (including as raised by Commission staff during the local process), the City determined that because the fees are similar to State Parks daily parking fee rates (i.e., the City proposes fees of \$10-15 when State Parks charges \$10),⁵ and because of local demographics and assumptions about average frequency and duration of beach visits, the City does not anticipate adverse impacts to beach users or to other parking areas. More specifically, the City's memo for the Planning Commission in response to Commission staff comments (dated July 14, 2020, see **Exhibit 5**), indicates that there are two broad income groups in the City: residents who would qualify for State Parks' low-income Golden Bear Pass (e.g., any person receiving Supplemental Security Income, aid under CalWORKS, or over 62 years of age with income limitations as specified by State Parks), and residents who are higher-income and as such could afford to purchase the resident-only passes. For residents who are somewhere in-between, the City proposes the \$90/9-month off-peak annual pass. Further, the City in their analysis assumes pass-holders will visit the beach enough that the annual passes will be more affordable than the current hourly fee structure, assuming those residents visit the beach at the same frequency whether or not they have the annual pass, reducing the cost per visit the more they visit the beach. In addition, the City indicates that the majority of non-local visitors stay for the day, and the City concludes that when such visitors pay their only proposed rate option, the cost to these visitors would be approximately the same whether the fee is hourly or flat-rate (5 hours at \$2 or \$3 per hour equals a \$10 to \$15 fee).

⁵ Again, as described earlier, it is not clear whether these State Parks parking fees were ever permitted, and Commission staff is researching that issue as part of this matter as well.

The City's analysis, however, focuses primarily on *City* residents and *not* on other visitors to the shoreline from out of town, and *not* on lower income visitors who do not qualify for or have a Golden Bear Pass. In other recent cases involving beach parking lot fee proposals, the Commission has expressed concern when it appeared that local governments had not fully analyzed the impacts of these fees on all potential coastal visitors.⁶ In addition, and as noted above, the City's support for its revised fee structure assumes that the current fees are not *already* creating a barrier for users to access the beach, but it appears they have not been authorized by a CDP. This also raises LCP and Coastal Act consistency questions that should be analyzed by the Commission in de novo review.

Further, the City did not analyze off-site impacts attributable to charging fees for this parking lot and how user patterns will change as a result, including evaluation of: how this action affects parking related to other beach access points, how much parking is available in the adjacent neighborhoods within reasonable walking distance,⁷ the distances of these alternative parking locations to the beach and whether the alternatives are free or fee-based, how this may impact other places where displaced parkers may migrate in the City, and how beach access users may change their beach access habits because of these fees. In essence, the full ramifications of the City's action were not adequately identified, addressed, or resolved. These important points must be addressed when parking fees are considered,⁸ particularly in cases like this, where alternative free beach access parking could be miles away, which itself leads to questions about whether such parking fees equate to charging a fee to even access the beach at all.

Lastly, the City's staff report indicates that the City is in the process of upgrading the pay station to provide a touchless pay option at the site, which can be of concern for some lower income visitors as it could preclude the option for users to pay using cash, but it is unclear whether such development was authorized as part of this approval.

In short, the City-approved fee program raises a series of significant and substantial issues related to public recreational access, particularly for non-resident visitors to the coast who have no choice but to drive and park to be able to enjoy it. For the above reasons, the Commission finds that the City's approval of a CDP for the fee program

⁶ See, for example, the Pacifica State Beach parking fees program debated by the Commission at the March 2020 meeting, where the Commission's approval was premised on, among other things, a full-fledged lower-income parking pass program.

⁷ As described earlier, the Poplar Street neighborhood has been signed for no parking, meaning on-street public parking in that area is also not available to beach access users. It is not clear that these on-street parking restrictions inland of the Poplar Beach parking lot were ever permitted, and Commission staff is also researching that issue as part of this matter as well.

⁸ Questions regarding the disposition of revenues from any fees approved must also be addressed. For example, in the aforementioned Pacifica State Beach parking lot case, all of the fee revenues were required to be used for beach management and maintenance at that beach.

raises substantial Coastal Act and LCP conformance issues with respect to public recreational access.

Substantial Issue Conclusion

When considering a project that has been appealed to it, the Commission has the discretion to find that the project does or does not raise a substantial issue of Coastal Act and/or LCP conformance. As described above, when determining if a local action raises a significant issue, in addition to other reasons, the Commission may consider the five factors set forth in Section 13115(c) of the Commission's regulations. In this case, for the reasons discussed further below, the Commission finds that the City's approval of a CDP for the project raises a substantial LCP and Coastal Act conformance issue.

In this case, the five factors, considered together, support a conclusion that the City's approval of the fee program here raises a substantial issue of Coastal Act and LCP conformance with respect to public recreational access. As discussed above, the City's action was not supported with adequate facts or analysis to support a conclusion that the new fee structure will not have an adverse impact on recreational access, particularly for lower income individuals. In addition, the coastal resources that could be impacted with this approval, and the precedential value of the decision to future LCP interpretations is of significant concern. The City did not adequately analyze the access impacts to users of this beach who are non-residents and/or who may not qualify for the Golden Bear Pass, nor did they expand upon how such users may change their beach access habits because of this development or the effect that may have to adequate distribution of access resources within the City. Similarly, authorizing an *increase* in fees, when it is unclear that the charging of fees was ever authorized in the first place creates a bad precedent for future interpretations of CDP requirements under the LCP. Finally, the City's decision could have impacts of regional and statewide significance, both since the beach visitors it will most impact are those that come from outside the City of Half Moon Bay, creating disproportionate benefits and impacts to access, and because the charging of beach fees statewide is a question of Coastal Act significance that is analytically difficult and by no means considered minor.

In conclusion, the City-approved project raises a substantial issue regarding public recreational access. Therefore, the Commission finds that the appeal raises a substantial issue with respect to the City-approved project's conformity with the public recreational access provisions of the Coastal Act and the certified LCP, and the Commission takes jurisdiction over the CDP application for the proposed project.

Information needed for De Novo Review

Prior to bringing this matter back to the Coastal Commission for de novo CDP review, the Applicant will need to provide the information necessary to evaluate the project for consistency with the LCP and the public access and recreation policies of the Coastal Act. Absent further information regarding the potential effects of the proposed fee program, the Commission will not be in a position to evaluate the proposed project against applicable requirements and does not intend to schedule the de novo portion of the hearing until the City has provided further information to bridge the analytic gaps

that are currently present and associated with the proposed project. Such information includes clear and evidence-backed data and plans that identify:

- The quantity and location of free public parking spaces within walking distance of the beach accessway at the Poplar Beach parking lot and identification of any restrictions to such parking (e.g., no parking signs) along with evidence of CDPs for same;
- The parking locations where users will park if they won't or cannot pay a parking fee to park in the Poplar Beach parking lot (including identification of whether these are free or charge a fee) and the potential impacts of this change in parking patterns; and
- A complete project description and site plan detailing all elements of the City's proposed project that presumes that the fee program has not been previously recognized by CDP.

Appendix A – Substantive File Documents⁹

- City of Half Moon Bay Local Coastal Program
- City of Half Moon Bay CDP Application File PDP-20-040

Appendix B – Staff Contacts with Agencies and Groups

- City of Half Moon Bay City Manager
- City of Half Moon Bay City Attorney
- City of Half Moon Bay Community Development Director

⁹ These documents are available for review in the Commission's North Central Coast District office.