



December 11, 2012

Chair Gail Slocum and Members
San Mateo County Planning Commission
455 County Center, 2nd Floor
Redwood City, CA 94063

Re: PLN2005-00349 (Herring/Foss) Appeal of the Zoning Hearing Officer's approval on September 9, 2008 of a Coastal Development Permit, Use Permit, Design Review, Building Site Exception, Certificate of Compliance (Type B) and Certification of a Negative Declaration to allow construction of industrial buildings on six parcels (four are non-conforming) and to authorize conditional land uses in the Waterfront Zoning District, Shoreline Area.

Dear Chair Slocum and Members of the Planning Commission,

I am providing these comments on the above-referenced Appeal on behalf of Appellant Yuri Daher as well as Committee for Green Foothills. Ms. Daher is pleased that the Planning Staff agreed with her position that the maximum allowable height of buildings seeking an exception is 30 feet and that the height of all the buildings has been reduced from 36 to 30 feet. However, a 30-foot high building that is only six to eleven feet from the property line and 24 to 29 feet from her house will still seriously impact her home and garden's light, air, peace, and tranquility.

Additionally, the proposed project raises numerous issues as to consistency with the San Mateo County LCP, the County and State Subdivision Regulations, and CEQA.

A Coastal Development Permit may only be granted for development within the Coastal Zone if it can be demonstrated that individually or cumulatively, there will be no significant adverse impact on coastal resources. We believe the County cannot make these Findings, and we request that the Commission deny the CDP and associated permits.

Coastal Hazards/Erosion: The proposed project is located along the shore between Princeton Avenue and Ocean Boulevard, a paper street, which is under water. Along a portion of the site's ocean frontage, there is a 50-foot long existing 5-foot high concrete retaining wall that was constructed in 1979, as reported by a former boatyard employee, without benefit of County permits. There are some additional areas of rip-rap along the property's shoreline bank, which were also installed without permits. The concrete wall was located at approximately the toe of the bank and an unknown amount of fill was placed behind it to raise the level of the land to the same elevation as the top of the wall. This concrete wall has deteriorated and is being undermined by wave action, which is scouring out the sand and other beach materials beneath and behind the wall. This is a well-known phenomenon associated with hard structures placed on sandy beaches and cliffs/bluffs. Over time, more and more of the beach will be scoured out from beneath and behind the wall, which already has significant cracks in it. The Coastal Commission has initiated an enforcement action against this property and other properties along the shore in Princeton where sea walls, rip-

rap, and other coastal armoring structures have been placed seaward of some structures without the required permits. The County should not issue any new permits for this site, or others along the shore, until the unpermitted structures are removed and the required regional shoreline study is completed and the owners agree to its conclusions.

LCP Policy 9.11 (Shoreline Development) requires location of new development where beach erosion hazards are minimal and where no additional shoreline protection is needed. The January 28, 2008 50-year Erosion Study by Sigma Prime is inadequate in that it does not include sea level rise in its estimate of bluff or shoreline retreat. As stated above, the sea wall, rip-rap, and other unpermitted development on the site must be removed. An updated blufftop/shoreline retreat analysis must be done, taking into account sea level rise as well as the historic rate of bluff or shoreline retreat in Princeton. The study's conclusions should be verified by an independent engineering geologist or other qualified expert, and the project's buildings must be set back an adequate distance from the shoreline to avoid the need for shoreline protection devices during the 50-year economic life of the buildings. The shoreline retreat analysis should also discuss the effects of tsunami events upon the structures and recommend measures to avoid damage to the structures. The Staff Report's conclusion that self-supporting foundations for buildings could be located within the area of shoreline retreat is fundamentally inconsistent with the Coastal Act and LCP Policy 9.11, as the foundations would become a form of shoreline protection.

Visual Impacts - Blocking of Coastal Views: The proposed project's six buildings would create a continuous 150-foot long, 30-foot high wall. Condition 26 requires submittal of revised plans showing a 10-foot wide vertical separation between Buildings D and E. This would create a narrow canyon between the two buildings that is insufficient to provide additional shoreline views. Condition 26 also requires revising the project to relocate the industrial buildings further inland to provide lateral shoreline access for public use, and the shoreline access shall be setback a minimum of 25 feet from the mean high tide line, or a minimum of 10 feet from the top of the existing bank, whichever is greater. This will result in a substantially revised project with reduced building footprints, but it also may well be insufficient to ensure the shoreline access and buildings will not need protective armoring of the bluff within the 50 year economic life of the project due to the inadequate analysis of shoreline/blufftop retreat. See also comments under LCP Policy 9.11 above. Any revised project to conform with Condition 26 and revisions to the shoreline or blufftop setback should be subject to public review and comment.

The Project's Proposed COC -B violates the County Subdivision Regulations. Issuance of a Conditional Certificate of Compliance (COC-B) is a form of subdivision that is applied to situations where the subdivider did not obtain County approval for a land division. In this case, as stated in the Staff Report, Assessors Parcels numbers 047-037-160 and 047-037-170 were created by recordation of a grant deed in 2009, without benefit of County review and approval. In 2009, the minimum parcel size in the relevant W zoning district was 5,000 sq. ft. The two subject parcels that are now seeking a COC-B are only 2,500 sq. ft., which does not comply with the minimum parcel size. Recordation of these substandard parcels in 2009 created non-conforming parcels and as such is a substantive violation of the Map Act and/or the County Subdivision Regulations in that had a subdivision map been filed at the time of division it would have been disapproved, per County

Subdivision Regulations 7134.b(2). The applicant clearly has the ability to combine the two substandard parcels so that a fully compliant 5,000 sq. ft. parcel results.

Use Permits for Non-Conforming Parcels: The four 2,500 sq.ft. non-conforming parcels each require a Use Permit which is required for any parcels less than 3,500 sq. feet in area and less than 50 ft. in width. The applicant clearly has the ability to merge these substandard parcels to create fully conforming parcels. The creation of the two LLCs and alternating pattern of these LLC ownerships appears to be intended to avoid further merging of the parcels. The granting of Use Permits, which carry five-year entitlements in this case, is a special privilege in that the five-year entitlements also apply to the Coastal Development Permit. Generally Coastal Development Permits are good for only one year.

A Grading Permit should be required: The Staff Report, on page 9, states that the project involves 50 cubic yards of grading. Removing the illegal sea wall, and restoring the slope that has been filled behind this structure, coupled with removal of the extensive areas of concrete including the launch ramp and pads for boat construction, plus removal of possibly contaminated soil has the potential to exceed the stated 50 cubic yards. Removing the filled slope behind the sea wall would exceed the two-foot maximum vertical depth on competent natural terrain exemption in the Grading Ordinance.

There are errors, omissions, and inadequacies in the Initial Study and Negative Declaration, including:

1. Inadequate analysis of traffic in the Initial Study/Negative Declaration: The project site is located within a roadshed (Princeton and Seal Cove) that has only two access roads from Highway One - Capistrano Road to the south and Cypress Avenue to the north. The Initial Study failed to evaluate the impacts of the projected 248 average daily trips traffic from this project that must use the narrow, inadequate intersections of Broadway/Prospect and Prospect/Capistrano as well as Capistrano/Highway One, and Cypress/Highway One. The traffic study should address the project's impact on these intersections.

2. No analysis of soil and groundwater contamination in the Initial Study/ Negative Declaration: The Initial Study and Negative Declaration did not evaluate the impacts concerning potential contamination of soils on the property from the previous boatyard operations on the site, which included repairs of all kinds to boats and boat motors, stripping off old paint and repainting, which involved use of petroleum hydrocarbons from motor oil, hydraulic fluids, and paint products. Until such evaluation of contamination from pollutants is undertaken, the Negative Declaration should not be certified, and no Coastal Development should be issued.

3. Impacts to beaches and tidelands are not adequately analyzed: The Negative Declaration, in response to 1.a. Land Suitability and Geology states that the proposed buildings are set back a minimum of 42 feet from the mean high tide line. This is incorrect, as the Staff Report on page 16 states the rear setback of the buildings ranges from 15 ft. 8 in. to 39 ft. While the mean high tide line is not shown on available project plans, at high tide, the ocean is at the base of the slope and/or the base of the concrete wall. The rear property line is generally near the "toe of slope" shown on

project plans except along the concrete wall, which ranges from approximately two feet to six feet inland from the property boundary. The Mean High Tide Line should be indicated on the project plans and the Initial Study/Negative Declaration should be corrected and recirculated.

4. Impacts due to project's location in an area of shoreline erosion are incorrectly deemed insignificant due to proposed retention of illegal concrete seawall and riprap and use of self-supporting foundations for portions of the buildings that will be within the area of projected shoreline erosion. See previous comments. The illegal sea wall must be removed and the project revised to relocate the buildings out of the projected 50-year bluff/shoreline erosion.

5. The Initial Study/Negative Declaration acknowledges that there are potential impacts to vegetation and wildlife including to federal and state listed species, habitat food source, water sources, nesting or breeding places for listed species and sensitive habitats, but no biological study has been required and no mitigation measures are included except requiring a qualified biologist to conduct a pre-construction survey of trees within the vicinity of the site for nesting birds. This is inadequate as construction disturbance to the entire site, including at the edge of the shoreline, could impact listed species and other sensitive habitats. A biological study should be required.

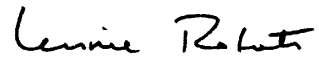
6. The Initial Study/Negative Declaration does not adequately address potential impacts to neighboring structures from pile driving, particularly vibrations. The response to 4.f. Air Quality, Water Quality, Sonic states that construction noise levels may include pile driving, but no analysis was done of vibrations from pile driving. Ms. Daher's residence, adjacent to the project site, is over 100 years old, and was adversely impacted from a construction site across the street. Pile driving for building foundations can create vibrations that could potentially damage her house's foundation and walls. Mitigation measures should be included or pile driving should be avoided entirely.

The Applicant states that a fish processing business will occupy Buildings A and B. Does the Applicant have a letter of intent or other documentation that such a business will indeed be using these buildings? It would appear from the Use Permit recently granted to "Exclusive Fresh, Inc." in Princeton that ready access for truck loading and unloading is necessary for such a business. Buildings A and B, as currently designed, have poor access for these purposes. Previous plans showed the fish processing in the eastern most buildings (E and F). This is a far better location not only from an access standpoint, but also it would reduce impacts (noise odors, etc.) to Ms. Daher's residence which is less than 30 feet from proposed Building A.

The County Planning Division is initiating an update of policies and regulations that apply to land use, zoning, and transportation in Princeton. A comprehensive plan for public access along the Princeton shoreline is expected to be one of the components. Changes to zoning consistent with the Coastal Act and other regulations are also being considered. Approval of this project at this time could prejudice the outcome of the study. Therefore we ask that approval of the CDP and associated permits for this project be deferred until the Princeton Update study is completed.

Thank you for consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Lennie Roberts". The signature is written in a cursive style with a large initial "L" and a stylized "R".

Lennie Roberts, San Mateo County Legislative Advocate