



COMMITTEE FOR  
GREEN FOOTHILLS

December 6, 2015

Dave Holbrook, Senior Planner  
San Mateo County Planning  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

**Re: Pre-Application Workshop for proposed development of six lots at Vallemar Bluffs property, Vallemar and Juliana, Moss Beach, PLN2015-00380**

Dear Dave,

On behalf of Committee for Green Foothills (CGF), thank you and the Midcoast Community Council for holding the Pre-Application Workshop on the above-referenced proposed project.

As you know, CGF has a long-standing interest in this property. We were deeply involved in opposing previous development proposals to drill up to 18 test wells for domestic water and construct one house on this property between 1997-2001.

This 2.48-acre site is a jewel of undeveloped open space that is beloved by many people. The rocky cliffs, sandy bluffs and small pocket beach just beyond its western boundary are part of the Fitzgerald Marine Reserve, and are a designated Marine Protected Area. An historic public trail traverses along the bluff edge, and a connecting trail also crosses the property from Vallemar Street to the bluff edge. Most of the open grasslands in the western half of the property are coastal prairie, an increasingly rare habitat. The mature cypress trees contain roosting and foraging habitat for raptors, including winter raptors.

The key issues for this proposed project include: compliance with LCP/Coastal Act requirements related to location and intensity of development, sensitive habitats, hazards, scenic views, and Open Space designation and RM-CZ-DR zoning. However, the threshold issue that first must be resolved is parcel legality.

**Parcel Legality:** On February 2, 1990, County Planning staff approved a Lot Line Adjustment (LLA 89-21) that consolidated the underlying 40 “paper subdivision lots” into 7 parcels. These 40 lots were created in 1908 and appear to have been held in common ownership until acquired by then-owner Charnock in 1988. The County inappropriately employed a lot line adjustment process rather than requiring a lot merger and resubdivision subject to a Coastal Development Permit in approving the lot reconfiguration. In so doing, County Planning avoided notice to affected neighbors and other interested parties, including CGF.

Subsequently, the Coastal Commission, in approving one test well on Lot D, (Appeal A-1-SMC-98-949), made the following Findings: *“The Commission also notes that there is an underlying issue with regard to the legality of the lot in question, and the other nearby lots owned by one of the applicants, Mr. Charnock. These lots were allegedly created by a “lot line adjustment” in 1991,*

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*but may actually require a merger and resubdivision subject to Coastal Development Permit Approval. The Commission finds that the Commission's approval of the (test well) project should not in any way be interpreted as indicating that the underlying lot configuration is legal or proper. The Commission is putting any subsequent purchasers of these lots on notice to that effect."* County Planning staff also noted in its October 22, 1990 approval letter to Mr. Charnock: *"future buyers should be aware that the recordation of the Record of Survey does not imply that the resultant parcels are buildable."*

The County's Lot Line Adjustment approval of February 2, 1990 appears to have been nullified by subsequent court of appeal decisions that affect the legal status of lots of record created by subdivisions prior to 1937 ("Witt" and "Abernathy"). The County's Revised Criteria for Legalization of Parcels Included Within Historic Recorded Subdivisions (August 19, 2010) states (in relevant part): *"These (court of appeal) decisions concluded that one or more contiguously owned lots of such a subdivision could only be considered separately legal if it/they had been transferred, separately or together, by deed apart from any surrounding or contiguous lots..."* Furthermore, *"...previously recorded merged parcels, if undeveloped, are not exempt from the lot legality requirements mandated by the cited court cases..."*

**Prior to consideration of any proposal for development of this 2.4-acre site, the County must determine the legality of the purported 7 parcels, based on a Chain of Title. If the 1990 Lot Line Adjustment is invalid per the Witt and Abernathy decisions, as we believe they are, the Applicants have one legal lot, which under the RM-CZ-DR zoning regulations, is not eligible for further subdivision. The Applicants also would have the option of seeking a rezoning and General Plan/LCP/Zoning amendment.**

**Other applicable LCP/Coastal Act planning issues include:**

**Sensitive Habitats:** Most of the western portion of the property is comprised of coastal prairie, a rare and especially valuable native grassland habitat that supports several rare and endangered species and plays an important role in the ecosystem. The importance of coastal prairie habitat is widely recognized by government agencies, including the California Department of Fish and Game as well as non-government organizations, including the California Native Plant Society. San Mateo County LCP Policy 7.1 requires protection of environmentally sensitive habitat areas (ESHAs) and Policy 7.3 prohibits any land use or development which would have significant adverse impacts on ESHAs. These key policies are also subject to the mandate of Measure A, an initiative adopted by the people of San Mateo County.

**Hazards:** The property is adjacent to the rocky cliffs and marine terrace deposit bluffs of the Fitzgerald Marine Reserve. Both the LCP Hazards Map and the San Mateo County Geotechnical Hazards Map characterize the southern segment of these cliffs as "low" stability, while the northern half is "high" stability. This area of the coast is also shown as subject to tsunami hazards. LCP Policy 9.8 requires adequate setbacks to assure stability and structural integrity for new development, and requires that such development neither create nor contribute significantly to erosion or geologic instability of the site or surrounding area. The Coastal Bluff Recession Study by Haro, Kasunich and Associates did not differentiate between the two segments of different

stability in establishing the 50-year bluff recession setback line of 28 feet. Moreover, the mapped 28-foot recession setback is a gross average, which does not take into account the irregular nature of the top of the cliffs/bluffs. There is a prominent erosional gully/arroyo west of Lot B where the projected 50-year recession setback line is only 3-4 feet from the existing top of bluff. Sea caves under the granitic substrate add complexity to the erosional potential as well. This simplification of the setback does not meet the requirement of the LCP. Additionally, the 28-foot setback does not include allowance for potential tsunami hazard; the LCP Hazard and County Geotechnical Hazard maps show this area as subject to tsunamis.

**Scenic Views:** LCP Policy 8.5 requires that new development must preserve the visual and open space qualities of the site. The current proposal which would locate three large residential structures on open grasslands (Lots B, D, and E) will significantly impact the scenic views to and along the coast from Juliana and from the coastal trail.

**Public Access:** The Coastal Act requires that in carrying out Article X, Section 4 of the State Constitution, maximum access to the sea shall be provided (Section 30210) and new development shall not interfere with the public's right of access to the sea (Section 30211). The LCP has similar provisions. Accordingly, any proposed project on this site must ensure that existing public access is maintained over the long term. As the cliffs/bluffs erode and recede over time, sufficient room must be provided for the existing blufftop trail to be moved further inland through a mechanism such as a Floating Access Easement.

**Revised Project:** Depending upon the determination regarding parcel legality, any future development of this property should be restricted to the area easterly of the boundary between the open field and canopy of the Monterey Cypress trees. The area of the property to be protected is generally shown on the "Outline of Coastal Prairie and Rare Plant Habitat, Vallemar Bluff" by botanist Toni Corelli, attached. Permanently protecting this area through an enforceable restriction would fully preserve the environmentally sensitive habitats (ESHA) of the open fields, preserve scenic views to and along the shore, and ensure that cliff/bluff erosion will not threaten any future development.

Thank you again for the opportunity to provide early input into this project, and we look forward to working with the County, the Applicant, the MCC, and other interested parties on an alternative that is fully compliant with the LCP and Coastal Act.

Sincerely,



Lennie Roberts, Legislative Advocate

cc: Midcoast Community Council  
Nancy Cave, District Manager, California Coastal Commission  
Marlene Finley, San Mateo County Parks Director  
Owen Lawlor, Lawlor Land Use  
Other interested parties