



## City of Half Moon Bay

Planning Department  
501 Main Street Half Moon Bay CA 94019  
Phone: 650.726.8250 / Fax: 650.726.8261

### APPEAL FORM

**ACTION OF CITY BEING APPEALED:** CDP and Architectural Review approval by Planning Commission

**PROJECT OR REFERENCE NUMBER:** PDP-15-046

**LOCATION:** 1191 Main Street, APN 064-370-050

**DATE OF ACTION:** January 26, 2016

**DATE APPEAL PERIOD ENDS** February 9, 2016  
(If Applicable)

**NAME OF APPELLANT:** Citizens for Preserving Rural Half Moon Bay (Kevin Lansing as contact point):  
Jules Sofer, Kevin Lansing, Pamela Fisher, James Benjamin, and Paulette Eisen  
(Please Print)

**ADDRESS:** 536 Poplar Avenue, 760 First Avenue, 659 Highland Avenue, 400 Pilarcitos Avenue, and 439 Kehoe Avenue,  
respectively, all in Half Moon Bay, California 94019

**PHONE NUMBER AND EMAIL:** (650)726-5333, (415)314-2596, (650)712-0370, (650)713-0186, (650)560-8002; and  
jsofer@gmail.com, kevin.j.lansing@gmail.com, pamelafisher@gmail.com,  
jamben@pacbell.net, and pez4444@comcast.net, respectively

**SIGNATURE OF APPELLANT:**

*Paulette Eisen Kevin Lansing Pamela Fisher James Benjamin*

#### STAFF USE ONLY

Action Appealable to Coastal Commission

\_\_\_\_ Yes

\_\_\_\_ No

Subject to City Appeal Fee Per Master Fee Schedule

\_\_\_\_ Yes

\_\_\_\_ No

City Fee Collected: \_\_\_\_\_

Received by: \_\_\_\_\_

Date: \_\_\_\_\_

Please Attach a Separate Statement of Appeal That Describes in Detail the Grounds for the Appeal and the Relief Being Sought





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CITY CLERK - HMB  
2016 FEB -9 AM 10:55

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Mayor Rick Kowalczyk and the Members of the City Council  
City of Half Moon Bay  
501 Main Street  
Half Moon Bay, CA 94019

CITY CLERK - HMB  
2016 FEB -9 AM 10: 55

February 9, 2016

Honorable Mayor Kowalczyk and Council Members:

This letter describes the grounds for this appeal of PDP-15-046, a Coastal Development Permit (CDP) for a 50-foot high prefabricated fire training tower adjacent to current fire station at the corner of Higgins Canyon Road and Main Street – the southern entrance to downtown. The prefabricated structure will allow several forms of firefighter training, including live-fire burning in its interior. The tower is to be built on a concrete pad that was installed several months ago as a deviation from a permit for a paved parking lot sought by the applicant after construction had already begun. The project violates visual resource protection policies of the certified Local Coastal Program (LCP) and its Implementation Plan (LCP/IP), and Titles 1, 14 and 18 of the Municipal Code. The appellants respectfully request that the City Council either impose additional conditions to ensure that the project conforms to the LCP/IP, or deny the permit. The appellants also request that the City Council acknowledge that the project is appealable to the California Coastal Commission.

On December 8, 2015 the Planning Commission continued consideration of this project so that the applicant (Coastside Fire Protection District) could install story poles to help the public visualize the structure being considered. On January 26, 2016 the Planning Commission approved the CDP for the project by a 3-2 vote.

### **Basis for Appeal**

Adopted policies of the certified LCP and sections of the LCP/IP require decision-makers to prohibit new development from protruding into the skyline when seen from Highway One, and to evaluate the project's impact in terms of protecting viewshed to the east and west, compatibility with nearby buildings (particularly historic buildings), and consistency with the character of the neighborhood. More specifically, the project violates several LCP policies and related sections of the Municipal Code.

The project violates an objective standard in LCP/IP §18.37 *et seq* "Visual Resources Protection Standards" by projecting above the ridgeline into the skyline when viewed from Highway One.

The project does not conform to visual resource standard protecting views of the eastern hills from Highway One. Prior to the most recent Planning Commission meeting the public provided the City correspondence that included a copy of the zoning map and supporting photographs to explain this violation in the following steps.

**(1) 18.37.020 Visual resources areas.**

The community development director shall prepare and maintain maps of all designated visual resource areas within the city, based upon the visual resources overlay map contained in the city's local coastal program land use plan. Visual resource areas within the city are defined as follows:...

**C. Planned Development Areas.**

The certified Zoning Map shows the triangular parcel bounded by Highway 1, Main Street and Seymour Street as a Planned Development Area, and thus the LCP/IP identifies this triangular parcel as a visual resource.

**(2) 18.37.015 Applicability**

Development projects, including additions and remodeling, are subject to the standards for review by the planning department staff, architectural review committee and planning commission as set forth in this title. In addition, all new development projects within or adjacent to visual resource areas shall meet the visual resource standards established within this chapter.

The parcel that would contain the proposed fire tower is adjacent to the triangular parcel, which has already been identified as a visual resource. Since it is adjacent to visual resource area, §18.37.015 requires this project to meet the visual resource standards established within §18.37 of the LCP/IP.

**(3) 18.37.035 Upland slope standards.**

New development shall meet the following criteria:

A. Grading or creation of a building site which results in significant alteration of the natural terrain shall not be allowed. Structures shall be subordinate in appearance to the natural land form and to follow existing contours...

C. Structures shall be sited so as to not intrude or project above the ridge line skyline as seen from Highways One and 92. (5)

The City Attorney misinterpreted §18.37.035 as applying only to development on upland slope parcels. This is a misinterpretation because the certified LCP/IP's rules for construction of language unambiguously and forcefully reject the use of headings to limit the scope, intent or meaning of the LCP/IP as described here:

**18.02.020 Rules for construction of language.**

In addition to the general provisions of the municipal code, the following rules of construction shall apply:

...

J. Article and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of any section hereof.

In other words: The prohibition of newly developed buildings projecting above the ridgeline when seen from Highway One is not limited in any manner by section heading in which it appears, City Attorney advice notwithstanding.

The Planning Commission received the attached photographs looking toward the site from Highway 1. These photos clearly reveal that the project violates §18.37.035 by protruding above the ridge line, and by not being subordinate in appearance to the natural land form. The members of the Planning Commission relied on this erroneous advice to dismiss this concern despite the fact that §18.37.035 clearly applies to this site, and the pictures make the resulting violation clear for all to see.

Additionally, the project violates the following LCP policies and LCP/IP and Municipal Code sections:

- The proposed tower violates Municipal Code §18.01.010(G) which states "Conserve and enhance important visual resources within the city, including views from Highway 1 of the Pacific Ocean and



coastal beaches and bluffs, the visual character of the old downtown area, and views of the inland hillsides at the eastern edge of the city." Pictures taken from the west shoulder of Highway 1 on January 23, 2016 show that the tower projects continuously above the ridge line for a horizontal travel distance of about 193 yards along Highway 1.

- Municipal Code §18.37.010(E) states "Allow development only when it is visually compatible with the character of the surrounding areas." This tower should not be permitted because it is clearly not compatible with the southern gateway to a rural town, the surrounding agricultural character of the area and the nearby historic Johnston House.
- Municipal Code §14.37.035(G) states "The proposed development shall be compatible in terms of height, bulk and design with other structures and environment in the immediate area." The proposed tower would clash sharply with the surrounding buildings that include: (1) the existing fire station, (2) the community theatre, (3) the houses of Main Street Park, (4) the Ford dealership, (5) a working farm house, and (6) the Johnston House and its associated buildings.
- Municipal Code §14.37.035(I) states "If the project site is located in an area considered by the committee as having a unified design character or historical character, the design shall be compatible with such character." The nearby Johnston House (which dates to 1855) is listed in the National Register of Historic Places. The proposed tower clashes sharply with the rural historical character of the area.
- Municipal Code §14.37.030(B) states "Requirements which are more restrictive than the development standards set forth in the city's zoning code may be imposed on a project when the community development director, planning commission, or city council on appeal concludes such requirements are necessary either to promote the internal integrity of the design of the project or to assure compatibility of the proposed project's design with its site and surroundings." The southern end of Main Street has a quiet, rural feel that will be compromised by this tower and associated training activities. Basic community planning principles tell us that this is the wrong place for an industrial tower that will be buzzing with training activity. Environmental review of the project should have considered alternative locations for the tower, and denial would motivate such consideration for any resubmitted project.
- Municipal Code §14.37.040(A) states "In approving any project, the director of community development, planning commission, or city council on appeal shall find that such buildings, structures, planting, paving, and other improvements shall be so designed and constructed that they will not be of unsightly or obnoxious appearance..." The proposed tower will be unsightly at all times and will be obnoxious to the public when buzzing with training activities.
- Municipal Code §14.37.035(J) and 18.20.070(F)(6) state "The design shall promote harmonious transition in scale and character in areas located between different designated land uses." This is an area where residential housing gives way to agriculture and open space. The proposed 50-foot tower does not promote harmonious transition in scale and character.
- The City's Downtown Specific Plan §4.311 states: "Enhance the visual appeal of the principal gateways into the downtown area." Even when it does not emit smoke, this industrial tower degrades the visual appeal of the City's southern gateway. Therefore, the project does not comply with the City's Downtown Specific Plan.
- The proposed tower violates California Coastal Act §30251, an adopted policy of the City's LCP which states "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance", reinforced by Municipal Code §18.37.010(A). For all of the previously stated reasons, approval the proposed fire tower fails to consider or protect the City's visual resources.

A fair analysis of the project facts against the just-summarized policies and municipal code cannot reasonably conclude that this is the right location for the project.

## **The Project is Appealable to the California Coastal Commission**

Both the December 8, 2015 and the January 26, 2016 staff reports state "This project is not located within the Coastal Appeal Zone. Therefore, City action on the permit is final." This is incorrect because a \$999,999 fire tower<sup>1</sup> meets the definition of a "major public works project," and the Coastal Act, the LCP and the LCP/IP all state that major public works projects are appealable to the California Coastal Commission (CCC), whether or not they are located in areas shown in Map(s) of Commission Permit and Appeal Jurisdiction (14 CCR 13576)

### **18.20.020 Definitions.**

**A. Appealable Development.** After certification of the local coastal program, an action taken by the city on a coastal development permit application may be appealed to the California Coastal Commission for only the following types of developments:...

3. Any development which constitutes a major public works project or a major energy facility...

**G. "Major public works" and "major energy facilities"** mean facilities that cost more than one hundred thousand dollars with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611, or 30624. Notwithstanding the criteria above, "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

Further, the project is not exempted from CDP requirements under CA Public Resources Code §§30610 and 30610.5, nor is it a response to an imminent threat per §30611, nor the subject of an administrative CDP per CA PRC §30624. Consequently, the project is appealable to the CCC, and project notices were defective with respect to the public's right to appeal this project to the CCC. Pursuant to §18.20.050(D) of the certified LCP/IP, appellants respectfully challenge the determination that the local decision is final.

## **CONCLUSION**

This appeal has explained how the proposed structure does not comply with LCP policies and LCP/IP Municipal Code sections requiring compatibility with the surrounding area, and clearly violates an LCP/IP prohibition of structures extending above the eastern ridgeline when viewed from Highway One. There are other compliance issues, such as the segmentation of the project (the project was segmented into an after-the-fact permit for a parking lot phase, which was modified after approval to support the impending tower with utilities and cutouts, and a separate CDP for the building, thereby circumventing the requirement that CEQA analysis address the whole of the project). It also explained why the project is appealable to the CCC.

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<sup>1</sup> The Coastside Fire Protection District's May 27, 2015 staff report was attached to public comment on the project. The report states that cost of the fire prop is \$999,999.

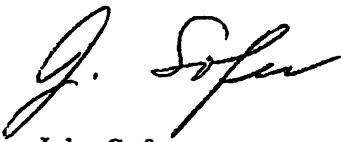
At its core this is a simple appeal:

- Half Moon Bay's land use laws require the tower design to fit with existing development in the surrounding area. This project is not compatible with the surrounding area and would visually degrade the City's southern gateway.
- Half Moon Bay's land use laws prohibit the tower from projecting above the ridgeline when viewed from Highway One. Photos taken from the west shoulder of Highway One show that the tower projects above the ridgeline.

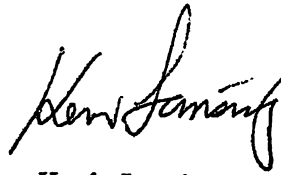
For the above-stated reasons, this project should not have been approved by the Planning Commission. The City Council should either impose additional conditions to ensure that this project conforms with the LCP and Municipal Code, or deny the project at this location. The appellants respect and thank the CFPD board, administration and staff for their service, and do not begrudge them necessary training equipment. But at this location, a fifty-foot fire tower does not fit in, and does not conform to the City's laws.

Your citizens appeal to you to uphold our laws. We thank you for your consideration.

Respectfully,



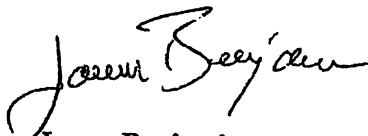
Jules Sofer  
536 Poplar Ave.  
Half Moon Bay, CA 94019



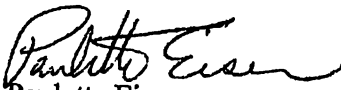
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Half Moon Bay, CA 94019

Attachments: photographs, CFPD memo dated May 27, 2015















## Coastside Fire Protection District STAFF REPORT

TO: Honorable Board of Directors FROM: Paul Cole, Assistant Chief  
SUBJECT: Training Prop Funding Plan DATE: May 27, 2015

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### Staff Recommendation

The Board of Directors accepts this report as presented and approves the funding plan of the Station 40 Training Prop.

### Background

In 1996, the District developed the site plan for the new Fire Station 40 located at 1191 Main Street in Half Moon Bay. Phase II of the plan included a Training Prop to be located on the lot adjacent to the new fire station, with architectural renderings of the Prop included in the original site/building plans submitted to the City of Half Moon Bay's Planning Department. The justification for a training prop was previously established by both staff and the Board and was included as a strategic goal in the Half Moon Bay Fire District's Strategic Plan (March 2002). However, due to economic conditions and constraints a funding strategy was not identified or implemented as part of the strategic plan.

While preparing the preliminary budget plan for FY 2015/2016, staff identified an opportunity to secure a training prop and financing instrument utilizing a lease purchase program offered through Government Capital Corporation (Please note the lease purchase financing program referenced was not available to the District during the development of the 2002 Strategic Plan ). The financing plan offered is achievable and can be sustained within the forecasted (FY15/16) budget. Moreover, the funding does not utilize any of the monies allocated in the Land and Structures Internal Service Fund as those are designated for land purchases and future fire station development and construction.

### Discussion

Modern and effective fire suppression, technical rescue and support operations are predicated upon continuous, practical and realistic emergency service training of District assigned personnel. Historically, the Coastside Fire Protection District has had to rely on "improvising and adapting" the majority of its training efforts and operations due the fact no fire training facility is located on, or near, the coastside. The improvising has included the use of restroom facilities at local beaches, and the occasional vacant commercial retail space, both of which are no longer available or practical for today's essential training and service demands. These demands mandate realistic training for a variety of exercises including; fire hose advancement, fire attack, ventilation, forcible entry, search and rescue, laddering and rappelling, roof penetration, confined space rescue, high-angle rescue and other specialized training.

The closest suitable and operational training facility available to meet the aforementioned training demands is located in South San Francisco, approximately twenty-one (21) miles away. Due to the extended distance and District staffing mandates, utilization of the facility is not feasible or achievable. Furthermore, it would be cost prohibitive due to excessive personnel overtime and facility use costs. For example, a three-person engine company (Captain, FAE-P and FAE) overtime coverage rate is approximately \$94.27 an hour. Using a typical drill assignment of three (3) hours per session as a baseline, the cost, per company, per drill assignment is approximately \$282.81. This equates to a cost of \$848.43 for three engines companies per one (1) three (3) hour session. On average, the fire companies attended twelve (12) manipulative drills each month. This would amount to an estimated monthly cost of \$10,181.16 to utilize an off site facility.







The need for a fire training facility extends beyond the District to neighboring fire agencies in the area. Seeking a cooperative opportunity, staff approached the San Mateo County Fire Department (CalFIRE contract) with the concept of sharing in the utilization and funding and of the facility. To date, their executive staff fully supports the concept and is currently developing their budget plan to reflect the annual expenditure referenced below. Once approved, a joint memorandum of understanding between the District and the San Mateo County Fire Department shall be developed to formalize the fiscal and operational elements of the collaborative undertaking.

**Training Prop Cost and Financing Elements**

Prop Cost:	\$999,999
Financing Lender:	Government Capital Group
Financing Structure:	Tax Exempt Financing with \$1.00 Purchase Option
Terms:	15 years
Interest Rate:	3.856%
Payments Commencing:	May, 2016 (one year after funding, date to be determined)
Down Payment:	\$99,999.00 (10%)
Financed Amount:	\$900,000
Annual Payments:	\$80,134.05
CFPD Annual Payment:	\$40,067.25
SMCO Annual Payment:	\$43,400.55 (includes .5 cost of down payment)
Annual Funding Source:	Salary savings from shared (.5) Staff Service Analyst Position (SSA) with San Mateo County Fire. Full time SSA annual salary included in Schedule "A" fiscal sheet is approximately \$112,000. Shared position cost savings projected at \$56,000 annually.
Down Payment Source:	The down payment of \$99,999.00 will utilize projected fund balance from the FY14/15 budget