

Resolution No. C-2021-13

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY
AUTHORIZING AN EMINENT DOMAIN ACTION TO ACQUIRE CERTAIN REAL
PROPERTY TO IMPLEMENT THE CITY'S 1985 COASTAL LAND USE PLAN, ITS 1996
CERTIFIED LOCAL COASTAL PROGRAM, AND ITS 2020 LAND USE PLAN UPDATE, AND
TO MITIGATE CUMULATIVE TRAFFIC IMPACTS**

WHEREAS, in 1976, the Legislature adopted the California Coastal Act establishing the California Coastal Commission, granting the Commission the authority to issue permits for land uses in the coastal zone, and requiring every city and county in the coastal zone to adopt and implement policies for protection and preservation of coastal resources; and

WHEREAS, the Coastal Act requires local jurisdictions to adopt a Local Coastal Program to govern the use and development of all property within the jurisdiction in the coastal zone, consisting of a Land Use Plan (LUP) and an Implementation Plan (IP), and obtain the Coastal Commission's certification of the LUP and IP; and

WHEREAS, the Coastal Commission's certification of a local agency's LUP and IP operates as a transfer of exclusive authority to issue coastal development permits from the Coastal Commission to the local agency; and

WHEREAS, the entirety of the City of Half Moon Bay lies within the California coastal zone and is therefore subject to the requirement that it adopt and maintain a Local Coastal Program, consisting of an LUP and IP; and

WHEREAS, in 1981, the Half Moon Bay City Council approved the City's first LUP, which also serves as the Land Use Element of the City's General Plan, and submitted the LUP to the Coastal Commission for certification; and

WHEREAS, on September 24, 1985, the Coastal Commission certified the City's LUP;
and

WHEREAS, the Land Use Map in the City's 1985 LUP designates the Arleta Park/Miramontes Terrace South, West of Railroad Avenue Planned Development area (WRR PD area), which in 1905 was mapped with an antiquated subdivision, as a Planned Development and Regional Public Recreation area. The 1985 LUP permits residential use of the WRR PD area, but notes that development of housing in the WRR PD area, which is currently vacant, could result in conflicts between residential and recreational uses, and that the preferred alternative for the WRR PD area, given Coastal Act priorities to conserve land adjacent to the waterfront, is public acquisition of private property in the WRR PD area; and

WHEREAS, the 1985 LUP discourages piecemeal development of the WRR PD area by applying Planned Development policies to the area to "preserve important resource values of

particular sites, to ensure achievement of coastal access objectives, eliminate poorly platted and unimproved subdivisions whose development would adversely affect coastal resources, and encourage provision for low and moderate income housing needs when feasible;” and

WHEREAS, the 1985 LUP further provides that development in the WRR PD area could result in conflicts between residential and recreational use, and that uncontrolled access to the beach and bluffs due to such development would create traffic congestion and environmental problems, and requires master planning “to deal with the unbuildable lots, to alter the mapped street system to minimize access conflicts and improve local circulation, to provide an adequate buffer between residential development and the public beach area, to preserve views along the bluff tops, to preserve the existing cypress stands, and to eliminate the possibility of streets ending at the State Beach property;” and

WHEREAS, in light of these constraints, the 1985 LUP requires that an owner seeking to construct housing in the WRR area prepare a specific plan for the entire WRR PD area for approval by the City identifying the location of roads and infrastructure, open space, public recreation, and commercial recreation, and subject the plan to environmental review under the California Environmental Quality Act, Public Resources Code §§ 21000 et seq. (CEQA); and

WHEREAS, in 1996, the Coastal Commission certified the City’s IP to complement the LUP certified in 1985, providing the City with exclusive authority to issue Coastal Development Permits (CDPs) under the City’s certified Local Coastal Program; and

WHEREAS, in 2013, the City commenced a comprehensive update of the 1985 LUP to ensure that the Plan reflects current conditions and community priorities, and anticipates future needs with a new planning horizon of 2040, and on October 20, 2020, in Council Resolution 2020-94, the Half Moon Bay City Council approved an LUP update (2020 LUP Update) that reflects changed circumstances with respect to coastal erosion/hazards, sea level rise, and sensitive habitat and includes policies encouraging lot retirement, among other things; and

WHEREAS, consistent with the 1985 LUP, the 2020 LUP Update allows for residential development in the WRR PD area and also recommends that the private lands in the area be considered for acquisition by the City to allow the lands to be used for green infrastructure to mitigate runoff and erosion of the bluff and Coastal Trail; and

WHEREAS, the 2020 LUP Update, like the 1985 LUP, also designates the WRR PD area as Regional Public Recreation and applies Planned Development policies requiring preparation of a specific plan for the entire WRR PD area prior to development of any individual parcel; and

WHEREAS, the six private parcels known as San Mateo County Assessor’s Parcel Numbers 056-096-240, 056-096-480, 056-127-030, 056-127-040, 056-128-090, and 056-125-210 (Property) are part of the antiquated subdivision in the WRR PD area and are owned by a

single family; and

WHEREAS, the City's acquisition of the Property would implement the City's 1985 LUP, 1996 certified Local Coastal Program, and 2020 LUP Update by protecting significant habitat and scenic values, providing an area for green infrastructure to control drainage and manage erosion, managing retreat of the Coastal Trail, and maintaining public access and recreational opportunities in the WRR area (Project); and

WHEREAS, on October 15, 2008, the Coastal Commission approved a modified coastal development permit authorizing the construction of 63 housing units by Ailanto Properties on land adjacent to the eastern ends of Grandview Boulevard and Terrace Avenue, north of Highway 92 and east of Highway 1 in the City (Ailanto Project), subject to the project sponsor's payment of \$45,000 per new housing unit constructed by the project sponsor (for a total of \$2.835 million) to allow the City to purchase and retire other property in the City to mitigate the traffic impacts of the Ailanto Project (Mitigation Funds); and

WHEREAS, the City's purchase and retirement of property in the WRR PD area with potential for residential development for the Project would mitigate the traffic impacts of the Ailanto Project as well as protect coastal resources; and

WHEREAS, the City intends to use the Mitigation Funds to acquire property in the WRR PD area for the Project to minimize the cumulative traffic impacts of the Ailanto Project and reduce the cost of the Project to the City; and

WHEREAS, the City Council exercises its independent judgment and finds that the proposed Project is exempt from the requirements of CEQA. Under CEQA Guidelines 14 CCR section 15301 (Existing Facilities) and section 15061(b)(3) (no possibility of effect on environment) because the City's acquisition of the Property will cause no change in the current physical condition of the Property as vacant land and will result in no change to the current use of the Property as vacant land; and

WHEREAS, each person whose name and address appeared on the last equalized San Mateo County Assessment Roll as an owner of the Property has been given notice and a reasonable opportunity to appear and be heard this date on the matters referred to in California Code of Civil Procedure section 1240.030 in accordance with California Code of Civil Procedure section 1245.235.

NOW, THEREFORE, BE IT RESOLVED:

1. That the City of Half Moon Bay intends to acquire the Property through the exercise of the power of eminent domain.
2. That the public uses for which the Property is to be taken are

- a. to protect significant habitat and scenic values, provide an area for green infrastructure to control drainage and manage hazards/erosion, manage retreat of the Coastal Trail, and maintain public access and recreational opportunities in the WRR area to implement the City's 1985 LUP, its 1996 certified Local Coastal Program, and its 2020 LUP Update, and
 - b. to mitigate the cumulative traffic impacts of the Ailanto Project.
3. That the City of Half Moon Bay is authorized to acquire the Property by eminent domain for the above-mentioned public purposes by Government Code sections 37350.5 and 25350.5 and California Code of Civil Procedure section 1240.350.
4. That the Property is described in Exhibit A and identified on the diagram attached as Exhibit B to this Resolution.
5. That the City has found and determined that:
 - a. The public interest and necessity require the Project.
 - b. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
 - c. The Property is necessary for the Project.
 - d. The City has made the offer required under section 7267.2 of the Government Code to the owners of record or representatives of the owners of record of the Property.
6. That the City and its appropriate officers, employees, and agents are authorized and empowered:
 - a. To acquire the Property by condemnation in accordance with the provisions of the Eminent Domain Law of the State of California.
 - b. To prepare, file, and prosecute in the appropriate court, such proceedings in eminent domain as are necessary for the acquisition of the Property.
 - c. To deposit the amount of probable compensation with the appropriate authority.
 - d. To apply to a court of competent jurisdiction for an order permitting the City to take immediate possession and use of the Property.

OWNER: Daniel K. Gearing
PARCEL NUMBER: San Mateo County APN 056-125-210

OWNER: Thomas J. Gearing
PARCEL NUMBER: San Mateo County APNs 056-096-240, 056-096-480, 056-127-030, 056-127-040, and 056-128-090

Exhibit A: Legal Descriptions
Exhibit B: Diagram

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 16th day of March 2021, by the City Council of Half Moon Bay by the following affirmative vote of at least two-thirds (4) of 5 members, to wit:

AYES, Councilmembers: Jimenez, Penrose, Rarback, Ruddock, Brownstone

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

APPROVED:

Jessica Blair

Robert Brownstone

Jessica Blair, City Clerk

Robert Brownstone, Mayor

EXHIBIT

A

LEGAL DESCRIPTION OF THE PROPERTY [GEARING]

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF HALF MOON BAY, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 1, BLOCK 3, AS DELINEATED UPON THAT CERTAIN MAP ENTITLED, "MAP OF FRANK P. BROPHY'S SUBDIVISION OF THE MIRAMONTES TRACT AT HALF MOON BAY, SAN MATEO, CALIF.", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON DECEMBER 4TH, 1905 IN BOOK A OF MAPS, AT PAGE 39 AND A COPY THEREOF ENTERED IN BOOK 3 OF MAPS AT PAGE 92.

APN: 056-096-240

* * * * *

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF HALF MOON BAY, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 4 IN BLOCK 3, AS DELINEATED UPON THAT CERTAIN MAP ENTITLED "MAP OF FRANK P. BROPHY'S SUBDIVISION OF THE MIRAMONTES TRACT AT HALF MOON BAY, SAN MATEO, CALIF.", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON DECEMBER 4, 1905 IN BOOK A OF MAPS, AT PAGE 39 AND A COPY THEREOF ENTERED IN BOOK 3 OF MAPS AT PAGE 92.

JPN: 056-009-096-25.01

APN: 056-096-480

* * * * *

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF HALF MOON BAY, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 5, IN BLOCK 6 A SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF FRANK P. BROPHY'S SUBDIVISION OF THE MIRAMONTES TRACT AT HALF MOON BAY, SAN MATEO COUNTY, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON DECEMBER 4, 1905, IN BOOK "A" OF MAPS AT PAGE 39 AND COPIED INTO BOOK 3 OF MAPS AT PAGE 92.

APN: 056-127-030

* * * * *

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF HALF MOON BAY, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 5 AND 6 IN BLOCK 6, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF FRANK P. BROPHY'S SUBDIVISION OF THE MIRAMONTES TRACT AT HALF MOON BAY", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON DECEMBER 4, 1905 IN BOOK A OF MAPS, PAGE 39 AND COPIED INTO BOOK 3 OF MAPS AT PAGE 92.

JPN 056-012-137-03 AND 056-012-127-04

APN: 056-127-030, 056-127-040

* * * * *

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF HALF MOON BAY, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 7, IN BLOCK 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "OCEAN BOULEVARD TRACT," FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA ON DECEMBER 4, 1905, IN BOOK D OF MAPS AT PAGE 39 AND A COPY ENTERED INTO BOOK 3 OF MAPS AT PAGE 90.

APN: 056-128-090

* * * * *

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF HALF MOON BAY, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 2 IN BLOCK 4, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF FRANK P. BROPHY'S SUBDIVISION OF THE MIRAMONTES TRACT AT HALF MOON BAY, SAN MATEO COUNTY," WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON DECEMBER 4TH, 1905 IN BOOK "A" OF MAPS AT PAGE 39 AND COPIED INTO BOOK 3 OF MAPS AT PAGE 92.

APN: 056-125-210

JPN: 056-012-125-06.00.00

EXHIBIT

B

DIAGRAM OF THE PROPERTY

Subject Parcels



Subject Parcels

