

Midcoast Community Council
P.O. Box 64
Moss Beach, CA 94038

An elected Municipal Advisory Council of the San Mateo County Board of Supervisors
Serving 12,000 Coastal Residents

April 24, 2000

To: President Rich Gordon
Vice President Mike Nevin
Supervisors Rose Jacobs Gibson, Mary Griffin, and Jerry Hill
San Mateo County Board of Supervisors
455 County Center, Redwood City, 94063
(650) 363-4571 - FAX (650) 599-1027

re: Appeal of CDP approval for PLN1999-00654 (419 Magellan Ave,
APN 048-021-160) on your agenda for April 25, 2000

Dear President Gordon and Members of the Board of Supervisors:

At our regular meeting of April 12, 2000, the MidCoast Community Council reviewed the above referenced appeal which is scheduled to be heard by your board on April 25, 2000. After hearing public testimony and due deliberation, the Council voted 4-0 with two abstentions to take a neutral position on this appeal, but to supply your board with the following information that we believe is relevant to this appeal and to related issues in the Miramar/Shore Acres area. The issues presented here were first raised when the MidCoast Community Council Planning and Zoning Committee reviewed this project in October of last year.

The first is the level of impact individual development has on existing sensitive habitats and coastal resources. The approach presented in the staff report for the Planning Commission hearing on this appeal and the accompanying environmental study was to look for sensitive habitats on the parcel itself and within a 100 foot buffer zone around the parcel.

This approach does not consider the bigger issue of the accumulative impact a number of individual developments might have on existing sensitive habitats and coastal resources. This project will be the fifth or sixth house built along this side of Magellan, an area that could potentially have 20 or so homes on it. A "parcelized" approach to development in this area, which does not take into account anything beyond the subject property, could result in substantial cumulative damage to sensitive habitats that are sustained by the drainage through the entire Magellan area. This limited approach misses the larger issue of historic and documented water movement through the area and how it affects identified sensitive habitats nearby.

The map supplied with this letter is an enlarged section of the 1960 "Official Map - County of San Mateo - State of California, Compiled from Official Records & Surveys by the County Engineer and Road Commissioner" and signed by the County Board of Supervisors, with the current parcel configuration overlaid. The roughly-triangular parcel to the north of Magellan Ave., labeled "Princeton Prop, Inc." is the parcel now known as Mirada Surf. It can be seen that the creek ran through what has been identified in the recent Mirada Surf Draft EIR as riparian and wetlands habitats.

From the 1960's on, many of the creeks in the area were diverted, culverted and filled in. This creek was diverted numerous times, and an access road for properties to the east built atop much of its stream bed. The

stream drainage is also identified in the EIR for the Montara-Moss Beach-El Granada Community Plan dated November 1978, on a hydrology map from the San Mateo County Planning Department (page 43). It is clear from this map that the stream drains a sizable watershed.

The drainage identified in the staff and environmental reports from the Planning Commission hearing is the topological remnant of this seasonal creek. It still carries water in the winter, although some of it is diverted off through a number of culverts to the Mirada Surf property to the north. But a visit to the area during a decent rain illustrates that water is still moving through the channels, and eventually feeding the riparian and wetland areas to the west.

The recent Bolsa Chica decision pointed out that not only are environmentally sensitive habitat areas (ESHAs) to be protected from development, but that adjacent areas that contribute to the condition of the ESHA should be protected as well. The drainage area along Magellan Ave. is a seasonal or intermittent creek, regardless of how many culverts have been installed, and alone is entitled to protection under LCP policies 7.1 through 7.13. Wetlands and riparian areas are sustained by their source drainages, which are often well beyond the established 100 foot buffer zones. Damage or alteration to these sources will affect the health of ESHAs "downstream." As stated in the County Counsel opinion (Attachment C to the staff report for the Planning Commission hearing), regarding the Bolsa Chica case, " ... development in *areas* adjacent to an ESHA are required to safeguard preservation of the ESHA." The italics are added to emphasize that the decision was in regards to *areas*, not just individual parcels, and that if a parcel is in an area that affects an ESHA, the protection of the ESHA needs to be considered.

In addition, we believe the California Environmental Quality Act also applies to this project and supports the need to address the issue of cumulative impact of these successive projects. A single family residence is not exempt from CEQA when the cumulative impact of successive projects of the same type in the same place is significant.

Earlier staff reports prepared for the Planning Commission hearing find that:

" ...1. This project is categorically exempt under the provisions of Section 15303, Class 3, Construction of New Single Family Residences."

This statement does not consider Section 15300.2 "Exceptions" of Article 19 of Title 14 of the California Code of Regulations which provides as follows:

15300.2. Exceptions

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located--a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant....

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c)...

The strength and importance of these limitations on the Class 3 categorical exemption are further supported by Public Resource Code Section 21083 which is one of the sections cited as authority for the Federal Regulations. Code Section 21083 provides in part:

21083. The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division [CEQA] by public agencies....

The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the environment" if any of the following conditions exist:

(a) ...

(b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(c) ...

This single family residence falls within the category of cumulative impact under both section 15300(b) and section 21083(b) when you consider it is part of the sizable development known as "Miramar" on the east side of Highway One, and this house will be the sixth home to be built on the east side of Magellan Ave adjacent to the creek bed and the watershed/sensitive habitat area discussed in the appeal. The environmental study ordered by the owners even refers to "future home sites" and the adjacent "Mirada Surf property" which has been proposed for development.

This single family residence falls squarely within the category of cumulative impact under both section 15300.2(b) and section 21083(b). The impacts of this single home may be "incremental," but when you consider the context in which it is being built the impact becomes "cumulatively considerable." This house is part of the sizable development known as "Miramar" on the east side of Highway One. This house is now the fifth or sixth house to be built on the east side of Magellan Avenue adjacent to the creek bed and the watershed/sensitive habitat area discussed in the appeal, and two additional lots along this creek bed have been approved for building. The environmental study ordered by the owners even refers to "future home sites" and the adjacent "Mirada Surf property" which has been proposed for development.

Each house has been approved by the Planning Department as being categorically exempt from CEQA, and thus the cumulative impact of these homes on the environment has not been addressed. It is exactly in this situation that Sections 15300.2(b) and 21083(b) require environmental review under CEQA and render the categorical exemption for single family residences inapplicable to this project.

In light of these facts, we believe the County and the independent environmental investigations need to be more expansive, and that the County needs to survey and study the areas around the identified ESHAs of Mirada Surf, including the historic drainage of the Magellan Ave creek, and review all development in this area in regards to the protection of these sensitive areas

Thank you for your consideration of this letter and your deliberations on these issues.

Sincerely,

April Vargas, Chair
For the MidCoast Community Council