

Planning & Zoning Committee of the MidCoast Community Council

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Fax: 3 Pages

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re: **PLN2001-00170:** Coastal Development Permit, Zoning Nonconformity Use Permit and Coastside Design Review for a new 1476 sf. manufactured single-family residence including attached 462 sf. site-built garage on a 5429 sf. parcel on Purisima Way between Hermosa and Miramar Dr. in Miramar.
APN 048-062-090

Dave:

At our meeting of 4/18/01, the Planning & Zoning Committee of the MidCoast Community Council reviewed the above referenced application. The meeting was attended by Mr. Joe Gibson, the property owner, and the applicant Mr. Jim Irizarry. We had the following comments:

In reviewing this case, and in listening to Mr. Gibson relation of the events involved, the committee certainly sympathizes with his plight, and we would like to see something done to alleviate not only his situation, but also to prevent incidents like this from occurring in the future.

It would seem that amongst the previous owner, 2 real estate agents, an experienced contractor and consultations with the County Planning Department, no one bothered to inform Mr. Gibson that he was purchasing a substandard lot and that the house he proposed to construct on it would be non-conforming to the S-9 zoning standards, and in fact, gave him incorrect and misleading information. Our Committee considers these to be an inexcusable and unprofessional series of actions, especially as Mr. Gibson himself notes in his letter to the Granada Sanitary District that: "If any of these parties had mentioned the words 'substandard' or 'non-conforming' to me, I would have run away from purchasing the lot."

Conversations with local Real Estate agents reveal that notification and explanation of zoning requirements when buying or selling land is usually carefully covered, to avoid future legal problems. Why the agents involved did not supply this information to Mr. Gibson is not known.

The previous owner must have been aware of the zoning requirements – more than 2 years ago he had brought a project proposal for a retail nursery outlet at that site to the MidCoast Community Council. At the same time, I believe he was also applying for a Lot Line Adjustment to the two substandard parcels (both since sold separately, one of them to Mr. Gibson) to re-orient them toward Purissima Way. In permitting this LLA, the County must have discussed the zoning requirements with him – in fact, it is surprising it was allowed as it eliminated any access problems to the parcels and created the situation we now face. That he was also able to get CCWD water connections to the newly reconfigured parcels at a time when very few were available without lot consolidation is another matter that warrants close investigation.

Had there not been what seems to be a blatant process to ignore the zoning requirements in the creation of these parcels, and the negligence from all involved in Mr. Gibson's counsel, our Committee might be inclined to recommend approval for this proposal in light of the hardship involved. Even with this, our members have offered to work with Mr. Gibson's contractor to at least bring the proposed house into conformance with the setback and coverage requirements of the property.

We feel some concrete and positive action by all involved to remedy this situation, and help prevent its re-occurrence, would be necessary before it proceeds any further. Various ideas were put forth:

- That the County and the MCC help Mr. Gibson get his purchase price back on the lot from the previous owner, along with adequate restitution for his troubles and inconvenience,
- That the County and the MCC pressure the previous owner to buy back the other, as-of-yet-undeveloped parcel and give it to Mr. Gibson so that he would have a fully conforming parcel,
- That in addition to any of the above, the County immediately re-evaluate its policies and practices so as to discourage the sale, purchase and application for development of substandard lots in situations where they can be avoided,
- That the County inform and work with the Real Estate and Building industries to be sure that zoning requirements are fully understood and that this information is conveyed clearly and explicitly to buyers and sellers.

In just our last two meetings, we have dealt with four proposals for development of substandard lots in the Miramar area. In each case, we have determined that there were opportunities in the immediate past for the merger of these lots that were either intentionally or unknowingly ignored by both the owners and/or the County Planning Department. It is distressing that good people like Mr. Gibson get caught in the middle of these situations because of others' negligence, and we would like to work with the County to alleviate his problems and prevent these from happening again. To that end, the full Council has placed the start of a study of the substandard lot situation in Miramar on its agenda for 5/9/01, with the intent of developing some concrete recommendations that can be taken in the immediate future by the County.

Mr. Gibson deserves the right to build the home that he needs without inadvertently being forced into creating a detriment to the surrounding neighborhood and having to endure the potential of endless appeals by neighbors and other concerned individuals.

With the above comments, the Committee reluctantly cannot recommend approval of the project as proposed as it does not meet the zoning regulations and land use designations of its area, and it was not demonstrated that there were unavoidable circumstances in the development of this situation. Thank you for your help, and please keep us informed of any further developments, redesigns, hearings, approvals or appeals concerning this application.

A handwritten signature in black ink that reads "Chuck Kozak". The signature is written in a cursive, flowing style.

Chuck Kozak, MCC Planning and Zoning Committee Chair
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