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COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY

INTERDEPARTMENTAL CORRESPONDENCE

Date: January 25, 2001
Hearing Date: February 13, 2001
Set Time: 9.00 a.m.

To: Honorable Board of Supervisors

From: Marcia Raines, Director of Environmental Services Agency *me*

Subject: EXECUTIVE SUMMARY: Consideration of an appeal of the Planning Commission's decision to approve a Coastal Development Permit to legalize the addition of a corrugated metal pipe to an existing drainage culvert and the removal of silt from the drainage ditch downstream from the culvert. The project site is located on the Mirada Surf property, east of Cabrillo Highway, in the unincorporated Miramar area. This project is not appealable to the California Coastal Commission.

RECOMMENDATION

Deny the appeal and uphold the decision of the Planning Commission by adopting the required findings and conditions of approval listed in Attachment A

PROPOSAL

The applicant is applying for an after-the-fact Coastal Development Permit to legalize the addition of approximately eight linear feet of corrugated metal pipe to an existing drainage culvert. The permit also includes the removal of approximately six cubic yards of silt from the downstream drainage swale that the pipe feeds. The removal of this silt has not yet occurred.

BACKGROUND

Appellant: Barbara Mauz

Owner: Anthony Eredia Trust

Applicant: Dennis Doherty

Location: Quarry Park Easement road, Mirada Surf, Miramar

APN: 047-330-010

SUMMARY

The appellant charges that the County Planning Commission erred in approving the project, in that the Commission did not recognize that the project site is (1) an intermittent creek, and (2) a sensitive habitat area. Staff pointed out in the Planning Commission staff report that the drainage arroyo does not meet the definition of an intermittent creek nor does it meet the definition of a sensitive habitat area as contained in the County's Local Coastal Program. The appellant also argues that this project should be appealable to the Coastal Commission. However, the Coastal Commission has stated, in writing, that they do not consider the project site an appeal jurisdiction.

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COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY

INTERDEPARTMENTAL CORRESPONDENCE

Date: January 25, 2001
Hearing Date: February 13, 2001
Set Time: 9:00 a.m.

To: Honorable Board of Supervisors

From: Marcia Raines, Director of Environmental Services Agency 

Subject: Consideration of an appeal of the Planning Commission's decision to approve a Coastal Development Permit (CDP) to legalize the addition of a corrugated metal pipe to an existing drainage culvert and the removal of silt from the drainage ditch downstream from the culvert. The project site is located on the Mirada Surf property, east of Cabrillo Highway, in the unincorporated Miramar area. This project is not appealable to the California Coastal Commission.

County File Number: PLN 2000-00493 (Doherty)

RECOMMENDATION

Deny the appeal and uphold the decision of the Planning Commission to approve the Coastal Development Permit, County File Number PLN 2000-00493, by adopting the required findings and conditions of approval listed in Attachment A.

PROPOSAL

The applicant is applying for an after-the-fact CDP to legalize the addition of approximately eight linear feet of corrugated metal pipe to an existing drainage culvert. The permit also includes the removal of approximately six cubic yards of silt from the downstream drainage swale that the pipe feeds. The removal of this silt has not yet occurred.

BACKGROUND

Report Prepared By: Michael Schaller, Project Planner, Telephone 650/363-1849

Appellant: Barbara Mauz

Applicant: Dennis Doherty

Owner: Anthony Eredia Trust

Location: Quarry Park Easement road, Mirada Surf, Miramar

APN: 047-330-010

Existing Zoning. RM-CZ (Resource Management - Coastal Zone)

General Plan Designation. Public Recreation (Community Park)

Existing Land Use Open Space

Flood Zone: Zone C (areas of minimal flooding)

Environmental Evaluation: Categorically exempt under Class 1, Section 15301 (Minor Addition and Maintenance to Existing Structures) of the California Environmental Quality Act Guidelines (CEQA)

Setting: The drainage swale is located in a eucalyptus grove which contains a shrubby understory of non-wetland vegetation including English ivy, Himalayan berry, poison oak, and leaf litter. The drainage is ephemeral in nature and conveys water only during periods of rainfall. There is no evidence of side slope scour or an ordinary high water mark. No riparian vegetation was identified by LSA Associates, a biological consultant hired to examine the project site for this project.

Chronology:

<u>Date</u>	<u>Action</u>
1983 (approx)	- J.L. Johnston constructs "haul road" to access upper portions of his property (now known as the Mirada Surf property). Mr. Johnston had a Timber Harvesting Permit (issued by the State) to remove the eucalyptus trees on the property. Construction of this road also involved the placement of a culvert across the subject drainage swale.
August, 1999	- In August, 1999, the applicant cleared an approximately 500 sq. ft area of a drainage swale at the northeast corner of his property. This clearing consisted of the removal of sediment, dead tree branches and groundcover to improve drainage through the Quarry Park access road. In addition, 15 feet of new pipe (2-foot diameter) was positioned at a 45-degree bend off the end of the old pipe. Backfill was placed over the new segment of pipe.
September 3, 1999	- Received complaints from several parties regarding the placement of the culvert and associated work.
September 15, 1999	- Staff inspected project site and asked the applicant to submit additional information (including biologist's report) in order to determine if any riparian vegetation was present.

- December 30, 1999 - Staff determined that a Coastal Development Exemption would be the applicable permit for the drainage culvert work
- February 2, 2000 - County issued a Coastal Development Exemption for the culvert work.
- April 4, 2000 - Staff from the California Coastal Commission's San Francisco Office (CCC) met with County Staff at the project site. The CCC tentatively determined that the drainage swale constitutes an environmentally sensitive habitat area (ESHA), and thus any development proposed within 100 feet of the ESHA would be appealable to the Coastal Commission. Additionally, the CCC determined that the culvert repair/expansion does not properly qualify for an exemption under the County's regulations, since the added culvert pipe length represents an "expansion" to the existing drainage facility. An after-the-fact CDP is required.
- May 2, 2000 - The CCC informed the County that it had subsequently determined that the drainage channel (the portion of the project downstream of the culvert) is not a "stream" for purposes of establishing appeal jurisdiction under Commission Regulation Section 13577.
- June 1 and 20, 2000 - Staff requested the CCC clarify its position regarding the status of the project drainage swale/channel
- July 7, 2000 - The CCC reaffirms the reasoning behind its May 2, 2000 letter (see Attachment L, Planning Commission staff report). This letter confirms that the creek channel east of the drainage culvert is not an appeals jurisdiction stream as defined by the Coastal Commission regulations

DISCUSSION

KEY ISSUES OF THE APPEAL

The appellant's appeal issues are listed in **bold**, each followed by staff's response. The full appeal text is included as Attachment B.

- 1 **We are concerned that little or no review of the LCP, Coastal Act, or CEQA has taken place regarding (this) project.**

Staff's Response. The Planning Commission staff report examined the relevant policies in the County's Local Coastal Program (LCP). By extension of law, the County's LCP has been certified by the Coastal Commission and found to be in conformance with the Coastal Act and its provisions. A project found to be in conformance with the LCP is, by extension, in conformance with the Coastal Act.

Regarding the California Environmental Quality Act (CEQA), staff recommended the filing of a categorical exemption for this project. Section 21084 of the Public Resources Code requires that the CEQA Guidelines include a list of classes of projects, which have been determined not to have a significant effect on the environment and shall, therefore, be exempt from the provisions of CEQA. Class 1 projects consist of the repair, maintenance, or minor alteration of existing public or private structures and facilities, involving negligible or no expansion of use. The project consists of the addition of approximately eight feet of pipe to an existing culvert, and the removal of approximately six cubic yards of silt from the downstream drainage swale that the pipe feeds. The first activity constitutes a negligible expansion of use, and the second is a normal maintenance activity. Neither activity impacts sensitive habitat or diverts water away from the path that it has historically taken. The Planning Commission agreed with staff's analysis of the negligible environmental impact resulting from this project and approved the project at their December 13, 2000 meeting.

2. **We feel that the CDP must be denied due to the fact that the proposed new project will most certainly reroute water away from its current route that is the tree grove/sensitive habitat area of Mirada Surf.**

Staff's Response: There is no evidence to suggest that this project will reroute stormwater through this area. The eight feet of new pipe captures stormwater at a better angle than the previous inlet. This helps prevent overtopping of the pipe and scour behind the original inlet. The outlet of the existing pipe remains in the same location. Currently, during significant rainfall periods, stormwater will pool in the depression around the outlet of the pipe, eventually reaching a point where it overtops the pool and continues to meander down the drainage swale and into the lower portion of the eucalyptus grove. The removal of the six cubic yards of silt will only reinforce this trend. No water will be rerouted or diverted from the course that has been followed since the grading of the Quarry Park haul road. It should be noted that there is no indication that the health of the eucalyptus grove or the downslope wetlands has been affected by the current drainage pattern, which has been in effect for close to 20 years.

3. **The current appeal IS appealable to the Coastal Commission.**

Staff's Response: County Staff did not make the determination that this project was not appealable to the Coastal Commission. Coastal Commission staff made that determination, as outlined in their correspondences dated May 2 and July 7, 2000. This correspondence was attached to the December 13, 2000 Planning Commission staff report.

4. **The LCP does not limit definition of sensitive habitat to areas designated on specific maps.**

Staff's Response: True, however, the Planning Commission staff report discussed in length why the project site does not meet the definition of a Sensitive Habitat or a Riparian Corridor, rationale the Coastal Commission does not dispute, and supported by the applicant's biologist. Additionally, the project site does not appear on the certified Sensitive Habitat Maps for the LCP, or on the El Granada, Moss Beach, Montara Community Plan maps, as stated by the appellant in her letter to the Board. Nor is any designation of habitat made on any of the maps in the Community Plan. The map that the appellant included as

part of her appeal package is from the Community Plan EIR (1978) This map was never adopted into the Community Plan itself, nor is it accurate in depicting the location of the project site. Regardless, the project site does not meet the LCP's definition of sensitive habitat nor does it show up on any of the certified LCP maps or the USGS topographic maps. The Planning Commission did not err in their decision

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Appellant's Appeal
- C. Location Map
- D. Planning Commission Staff Report (including attachments)

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County of San Mateo
Environmental Services Agency

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number:
PLN 2000-00493

Hearing Date: February 13, 2001

Prepared By: Michael Schaller

For Adoption By: Board of Supervisors

RECOMMENDED FINDINGS

Regarding the Environmental Review, find:

1. That this project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15301, Class 1, relating to the expansion and maintenance of existing small structures.

Regarding the Coastal Development Permit, find:

2. That the project, as described in the application and accompanying materials required by Section 6328 7 and as conditioned in accordance with Section 6328 14, conforms to the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
3. That the project conforms to specific findings required by policies of the San Mateo County Local Coastal Program

RECOMMENDED CONDITIONS OF APPROVAL

Planning Division

1. The project shall be constructed pursuant to the plans approved by the Planning Commission. Revisions to the approved plans shall be submitted to the Department of Public Works and the Planning Division for review and approval "prior to" commencing any work pursuant to the proposed revision
2. This CDP shall be valid for one year from the date of approval. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable permit extension fees, no less than 30 days prior to expiration.
3. The applicant is responsible for ensuring that all contractors minimize the transport and discharge of pollutants from the project site into local drainage systems and water bodies by

adhering to the San Mateo County Wide Storm Water Pollution Prevention Program “General Construction and Site Supervision Guidelines,” including.

- a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
- b. Removing spoils promptly, and avoiding stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
- c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to a local storm drain system or water body
- d. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

Erosion and sediment control during the course of this construction work shall be according to a plan prepared and signed by the applicant, and approved by the Department of Public Works and the Planning Division. It shall be the responsibility of the applicant to regularly inspect the erosion control measures and determine that they are functioning as designed and that the proper maintenance is being performed. Deficiencies shall be corrected.

4. The applicant shall include, as part of the above required erosion control plan, a plan for the permanent disposal of excess spoils generated by this CDP. This permanent disposal plan shall also include erosion control measures.
5. If silt removal is proposed between October 15 and April 15, the applicant shall have prepared and submit for review and approval by the Planning Division, an erosion control program that is in compliance with the County’s applicable regulations.

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Attn: Mike Schaller

Carma Planning Dept

San Joaquin County Environmental Services Agency

Application for Appeal

County Government Center, 590 Hamilton St., Redwood City, CA 94063
Mail Drop PLN 722-915-363-4161

To the Planning Commission

To the Board of Supervisors

1. Applicant Information

Name: Barbara K. Mann Address: P.O. Box 1284 El Granada, CA 94018
Phone: 726-4013 Zip: 94018

2. Appeal Information

Case Number: PLN 2000-00493
APN 047-330-010
Date of Decision: 12-13-2000
Date of Appeal: 12-28-00
Reason for Appeal: I disagree with the decision. I want to appeal the decision.

3. Comments on Appeal

Please explain why you are appealing. In order to facilitate this, your precise objections are needed. For example, "Do you want the decision reversed? Why?" Do you object to certain conditions of approval? If so, then which conditions and why?

See attached appeal

December 28, 2000

Members of the Board of Supervisors
County of San Mateo
400 County Center
Redwood City, CA 94063-1662

Re: PLN 2000-00493
APN 047-330-010 - Quarry Park Easement Rd., Mirada Surf, El Granada

Dear Members of the Board

We are very concerned that little or no review by the LCP, Coastal Act or CEQA has taken place regarding the above-mentioned project. Please note that the CDP is intended to be for "after-the-fact" violation for placement of expanded pipe into the creek. Dennis Doherty should have been fined for the violation which occurred. The above named PLN is a new project and therefore needs serious environmental review and a separate CDP. There was no independent environmental review, as the applicant used McCracken/Byers (Mirada Surf) biologist and no review by CEQA, which is applicable. We feel that the CDP must be denied due to the fact that the proposed new project will most certainly reroute water away from its current route that is the tree grove/sensitive habitat area of Mirada Surf. The Bolsa Chica decision of April 1999 says that wetland protection for special habitat applies not only to the wetland itself, but also to areas adjacent to the wetland whose development could adversely impact the "biological diversity" of the wetland. Mirada Surf has wetlands as shown by Coastal Commission ordering studies. This project is directly adjacent and requires serious environmental review which has not taken place. Instead Dennis Doherty has interfered with natural drainage when he did the illegal (no permits) culvert work and installed the large pipe into the documented creek/riparian area. The new project would further divert the natural drainage

A visit to the site by Coastal Commission staff in April of this year revealed that a documented stream which runs under and along side the entire hillside parcels constitutes an environmentally sensitive habitat area (ESHA), and, thus, any development proposed within 100 feet of the ESHAs would be appealable to the Coastal Commission, therefore the current appeal IS appealable to the Coastal Commission. We are greatly concerned that this project would negatively impact and box in the sensitive habitat watershed (tree grove) and wetland areas below. We ask that the Board give consideration as to the cumulative impacts which would occur in this area and Mirada Surf, which is a County Scenic Corridor, greenbelt that separates Miramar from El Granada, wetlands, rural and a designated park

You state that our appeal regarding the above is not appealable to the Coastal Commission because the site is not shown on the "post-certification" appeal map that the Coastal Commission adopted in connection with certification of the San Mateo County Local Coastal Program (LCP).

We don't believe that the Coastal Act precludes an appeal, which seeks to protect demonstrated coastal resources. These have been shown by Coastal Commission staff to exist on the adjacent Mirada Surf property (which has wetlands and is therefore an ESHA also). Please remember that the Coastal Act is supposed to be construed in the most environmentally protected way.

Re. PLN 2000-00493 (BOS Appeal)
APN 047-330-010 - Quarry Park Easement Rd , Mirada Surf, El Granada

Further, There is substantial documentation and evidence that this is an intermittent stream albeit a severely damaged portion. The finding that this is not appealable to the Coastal Commission will deny the public due process and must be reversed

It is the opinion of the County that this is not an intermittent stream as it is not shown on current USGS maps. In fact the LCP does not limit definition of sensitive habitat to areas designated on specific maps

LCP Policy 7.2 Designation of Sensitive Habitats states Designate sensitive habitats as including, but not limited to, those shown on the Sensitive Habitats Map for the Coastal Zone (emphasis added)

Although the county is defining this as a drainage area there are documents defining this as an intermittent stream In particular USDA Map, series 1954, Community plan EIR hydrology map (figure 5); and most recently investigation as mentioned above by Coastal Commission staff

This stream is clearly depicted and is coded as an intermittent stream shown ending in an "imperfectly drained area in the USDA Soil Survey Map, San Mateo Area Series 1954, No. 13, issued May 1961. The El Granada, Moss Beach, Montara Community Plan shows this very same intermittent creek (pg. 24-25). This map is a part of the LCP. Policy 1.5 (Land Uses and development Densities in Urban Areas) specifically incorporates the Community Plan into the land use plan for the community.

LCP Policy*7.3(a) prohibits any land use which would have significant impact on sensitive habitat areas. Policy *7.3(b) requires that "development areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats "

This policy, and the policies contained in the Coastal Act make it clear that one of the objectives of the LCP is to protect environmentally sensitive areas Thus, under LCP Policy 1.5 the Community plan elements that show sensitive habitats should be considered a part of the LCP. this existence of this stream is identified in the LCP

The only serious, unbiased, site examination to determine the existence of the stream was made by the Coastal Commission The determination made as a result of that visit, based on physical evidence, is that it is a stream and should be treated as such

There are County maps delineating this stream There is a Federal map delineating this stream. The stream is identified in a document incorporated into the LCP. Therefore, we ask that the CDP for the above named PLN be denied.

Barbara K. Mauz
Barbara K. Mauz, Appellant
P.O Box 1284
El Granada, CA 94018

Phone: 726-4013
Attach

SERIES 1954 NO 13

ISSUED MAY, 1961

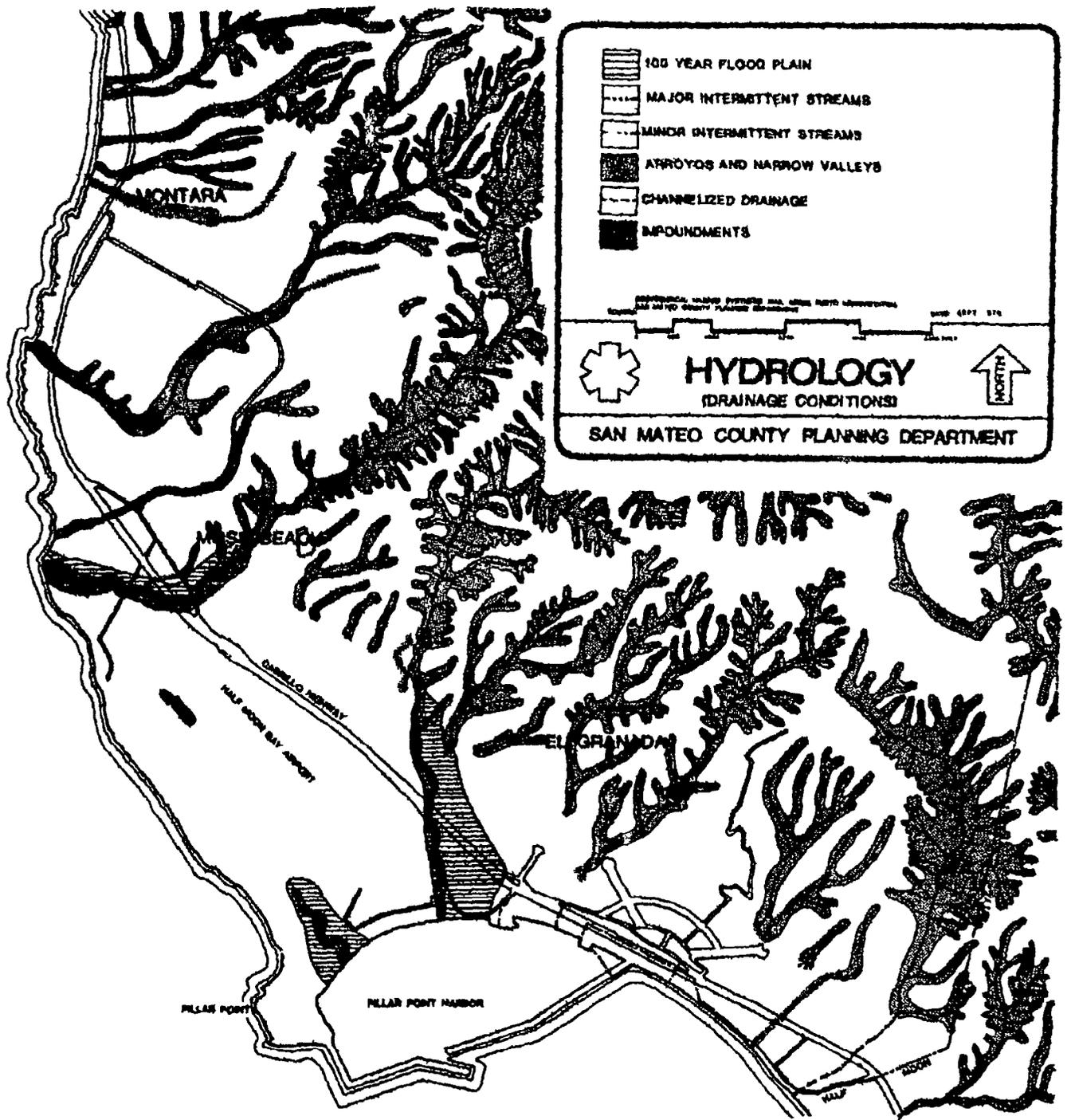
SOIL SURVEY

San Mateo Area

CALIFORNIA



UNITED STATES DEPARTMENT OF AGRICULTURE
 Soil Conservation Service
 in cooperation with
 CALIFORNIA AGRICULTURAL EXPERIMENT STATION



MONTARA • MOSS BEACH • EL GRANADA COMMUNITY PLAN

FIGURE 5

CALIFORNIA COASTAL COMMISSION

45 FREMONT SUITE 2000
SAN FRANCISCO CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



7 April 2000

San Mateo County Planning & Building Division
ATTN Dave Holbrook
Mail Drop PLN 122
455 County Center
Redwood City, CA 94063

RE: Mirada Surf/Doherty

Dear Dave:

I am writing regarding the alleged Coastal Act/LCP violations on the Mirada Surf/Doherty properties. During our site visit of Tuesday, April 4, 2000, Chris Kern, John Dixon, and I looked at the culvert repair/expansion, the access/haul road, the drainageway, the areas of tree removal, and the Mirada Surf property. Pursuant to our site visit, John Dixon, our biologist, indicated that he believes that the drainageway located near the access road is actually a streambank, under the Coastal Commission's definition, as well as the Department of Fish and Game's definition of a stream. This stream constitutes an environmentally sensitive habitat area (ESHA), and, thus, any development proposed within 100 feet of the ESHA would be appealable to the Coastal Commission. It is our intent to revise our post-certification map to reflect this change.

In addition, as we discussed on site, the County's LCP regulations for repair and maintenance exclusions limit exclusions to repairs that do not increase the size of the structure being repaired. Since an addition to the culvert was constructed, increasing its size, it appears that the work done on the culvert does not properly qualify for an exemption under the County's regulations. You indicated to Mr. Doherty that an after-the-fact coastal permit would be required for the culvert repair and expansion. This coastal permit would be appealable to the Coastal Commission. We further concluded that the pending coastal permit for a single-family residence located near the culvert would be appealable to the Coastal Commission, based on its proximity to the stream.

We have yet to determine if the access/haul road graded by J. L. Johnson is exempt from coastal permit requirements because it was allegedly graded pursuant to a timber harvest plan. We will look into that matter.

December 28, 2000

Members of the Board of Supervisors
County of San Mateo
400 County Center
Redwood City, CA 94063-1662

Re: PLN 2000-00493 (Appeal)
APN: 047-330-010 - Quarry Park Easement Rd , Mirada Surf, El Granada

We are very concerned that little or no review by the LCP, Coastal Act or CEQA has taken place regarding the above-mentioned project. Please note that the CDP is intended to be for "after-the-fact" violation for placement of expanded pipe into the creek. Dennis Doherty should have been fined for the violation which occurred. The above named PLN is a new project and therefore needs serious environmental review and a separate CDP. There was no independent environmental review, as the applicant used McCracken/Byers (Mirada Surf) biologist and no review by CEQA, which is applicable. We feel that the CDP must be denied due to the fact that the proposed new project will most certainly reroute water away from its current route that is the tree grove/sensitive habitat area of Mirada Surf. The Bolsa Chica decision of April 1999 says that wetland protection for special habitat applies not only to the wetland itself, but also to areas adjacent to the wetland whose development could adversely impact the "biological diversity" of the wetland. Mirada Surf has wetlands as shown by Coastal Commission ordering studies. This project is directly adjacent and requires serious environmental review which has not taken place. Instead Dennis Doherty has interfered with natural drainage when he did the illegal (no permits) culvert work and installed the large pipe into the documented creek/riparian area. The new project would further divert the natural drainage

A visit to the site by Coastal Commission staff in April of this year revealed that a documented stream which runs under and along side the entire hillside parcels constitutes an environmentally sensitive habitat area (ESHA), and, thus, any development proposed within 100 feet of the ESHAs would be appealable to the Coastal Commission, therefore the current appeal IS appealable to the Coastal Commission. We are greatly concerned that this project would negatively impact and box in the sensitive habitat watershed (tree grove) and wetland areas below. We ask that the Board give consideration as to the cumulative impacts which would occur in this area and Mirada Surf, which is a County Scenic Corridor, greenbelt that separates Miramar from El Granada, wetlands, rural and a designated park.

You state that our appeal regarding the above is not appealable to the Coastal Commission because the site is not shown on the "post-certification" appeal map that the Coastal Commission adopted in connection with certification of the San Mateo County Local Coastal Program (LCP)

We don't believe that the Coastal Act precludes an appeal, which seeks to protect demonstrated coastal resources. These have been shown by Coastal Commission staff to exist on the adjacent Mirada Surf property (which has wetlands and is therefore an ESHA also). Please remember that the Coastal Act is supposed to be construed in the most environmentally protected way.

DAVE HOLBROOK

Page 2

Finally, based on his site visit, it is Dr. Dixon's opinion that the boundaries of LSA's wetland survey of the Mirada Surf property seems to be accurate.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Chris Kern

COUNTY OF SAN MATEO
PLANNING AND BUILDING DIVISION

Date December 13, 2000

PROJECT FILE

To: Planning Commission

From: Planning Staff

Subject: EXECUTIVE SUMMARY: Consideration of a Coastal Development Permit, to legalize the addition of a corrugated metal pipe to an existing drainage culvert and the removal of silt from the drainage ditch downstream from the culvert. The project site is located on the Mirada Surf property, east of Cabrillo Highway, in the unincorporated Miramar area. This project is not appealable to the California Coastal Commission.

PROPOSAL

The applicant is applying for an after-the-fact Coastal Development Permit to legalize the addition of approximately eight linear feet of corrugated metal pipe to an existing drainage culvert. The permit also includes the removal of approximately six cubic yards of silt from the downstream drainage swale that the pipe feeds. The removal of this silt has not yet occurred.

RECOMMENDATION

That the Planning Commission approve the Coastal Development Permit, County File Number PLN 2000-00493, by adopting the required findings and conditions of approval.

SUMMARY

Staff believes the project as proposed and conditioned will comply with the County's General Plan and Local Coastal Program. The project site does not meet the definition of a sensitive habitat area or the definition of a riparian corridor. Improving the drainage through this short section of ditch could have a beneficial effect by directing more stormwater runoff to the south portion of the project site, where identified wetlands exist.

MS cdn – MJSK1775_WCU DOC

COUNTY OF SAN MATEO
PLANNING AND BUILDING DIVISION

Date: December 13, 2000

To Planning Commission
From: Planning Staff
Subject Consideration of a Coastal Development Permit, pursuant to Section 6328.4, of the County Zoning Regulations, to legalize the addition of a corrugated metal pipe to an existing drainage culvert and the removal of silt from the drainage ditch downstream from the culvert. The project site is located on the Mirada Surf property, east of Cabrillo Highway, in the unincorporated Miramar area. This project is not appealable to the California Coastal Commission

File Number: PLN 2000-00493 (Doherty)

PROPOSAL

The applicant is applying for an after-the-fact Coastal Development Permit to legalize the addition of approximately eight linear feet of corrugated metal pipe to an existing drainage culvert. The permit also includes the removal of approximately six cubic yards of silt from the downstream drainage swale that the pipe feeds. The removal of this silt has not yet occurred.

RECOMMENDATION

That the Planning Commission approve the Coastal Development Permit, County File Number PLN 2000-00493, by adopting the required findings and conditions of approval identified in Attachment A.

BACKGROUND

Report Prepared By: Michael Schaller, Project Planner, Telephone 650/363-1849

Owner: Anthony Eredia Trust

Applicant: Dennis Doherty

Location: Quarry Park Easement road, Mirada Surf, Miramar

APN: 047-330-010

Parcel Size: 41 acres

Existing Zoning. RM-CZ (Resource Management - Coastal Zone)

General Plan Designation: Public Recreation (Community Park)

Flood Zone: Zone C (Area of minimal flooding)

Existing Land Use: Open space

Environmental Evaluation: Categorically exempt under Class 1, Section 15301 (Minor addition and maintenance to existing structures) of the California Environmental Quality Act Guidelines (CEQA).

Setting: The drainage swale is located in a eucalyptus grove which contains a shrubby understory of non-wetland vegetation including English ivy, Himalayan berry, poison oak, and leaf litter. The drainage is ephemeral in nature and conveys water only during periods of rainfall. There is no evidence of side slope scour or an ordinary high water mark. No riparian vegetation was identified by LSA Associates, a biological consultant hired to examine the project site for this project.

Chronology.

<u>Date</u>	<u>Action</u>
1983 (approx.)	- J.L. Johnston constructs "haul road" to access upper portions of his property (now known as the Mirada Surf property). Mr. Johnston had a Timber Harvesting Permit (issued by the State) to remove the eucalyptus trees on the property. Construction of this road also involved the placement of a culvert across the subject drainage swale.
August, 1999	- In August 1999, the applicant cleared an approximately 500 square foot area of a drainage swale at the northeast corner of the Mirada Surf property. This clearing consisted of the removal of sediment, dead tree branches and ground cover to improve drainage through the Quarry Park access road. In addition, 15 feet of new pipe (2 ft. diameter) was positioned at a 45 degree bend off the end of the old pipe. Backfill was placed over the new segment of pipe.
September 3, 1999	- Received complaints from several parties regarding the placement of the culvert and associated work.
September 15, 1999	- Staff inspects project site and asks the applicant to submit additional information (including biologist's report) in order to determine if any riparian vegetation is present.

- December 30, 1999 - Staff determines that a Coastal Development Exemption would be the applicable permit for the drainage culvert work
- February 2, 2000 - County issues a Coastal Development Exemption for the culvert work.
- April 4, 2000 - Staff from the California Coastal Commission's San Francisco Office (CCC) meet with County staff at the project site. The CCC tentatively determined that the drainage swale constitutes an environmentally sensitive habitat area (ESHA), and thus, any development proposed within 100 feet of the ESHA would be appealable to the Coastal Commission. Additionally, the CCC determined that the culvert repair/expansion does not properly qualify for an exemption under the County's regulations, since the added culvert pipe length represents an "expansion" to the existing drainage facility. An after-the-fact coastal development permit is required
- May 2, 2000 - In light of their determination with the nearby Menden appeal, the CCC informs the County that it now has determined that the drainage channel (the portion of the project downstream of the culvert) is not a "stream" for purposes of establishing appeal jurisdiction under Commission Regulation Section 13577.
- June 1 and 20, 2000 - Staff requests the CCC to clarify its position regarding the status of the project drainage swale/channel
- July 7, 2000 - The CCC reaffirms the reasoning behind its May 2, 2000 letter (see Attachment J). This letter confirms that the creek channel east and upstream of the drainage culvert is not an appeals jurisdiction stream as defined by the Coastal Commission regulations.

DISCUSSION

A. KEY ISSUES

1. Conformance with General Plan

Staff has reviewed the project for conformance with the policies contained in the General Plan, including those within the General Plan's Vegetative and Wildlife Resources Chapter, and found the project to be in conformance

2 Conformance with Local Coastal Program (LCP)

The proposed project is in conformance with the Local Coastal Program (LCP) Staff has completed a Local Coastal Program Checklist and the following LCP component is relevant to this project:

a. Compliance with Sensitive Habitats Component

Policy 7.1 Definition of Sensitive Habitats

“Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting “rare and endangered” species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (other criteria not applicable).”

The project site and immediate vicinity do not meet the definition of a sensitive habitat. The project site was assessed by two different biologists who found no indication of rare or especially valuable plant or animal species in the immediate project area. There is no indication that “rare or endangered” species use the immediate project site. And the creek channel does not meet the Coastal Commission’s definition of a stream. The Coastal Commission’s definition is:

‘ a natural watercourse as designated by a solid line or a dash and three dots symbol shown on the U S Geological Survey map most recently published, or any well-defined channel with a distinguishable bed and bank that shows evidence of having contained flowing water as indicated by scour or deposit of rock, sand, gravel, or debris ’

The channel in question is not indicated on the most recent USGS map. Also there is no clear bed or bank as defined by a scour line. There are identified wetlands elsewhere on the project parcel. In fact, the drainage ditch in question eventually drains into an area designated as wetlands in the Mirada Surf EIR. However, these areas are well away from the project site. The project will not impede the movement of stormwater down to these areas and could have a long-term beneficial impact by increasing the amount of water that gets channeled into the drainage ditch. Currently the drainage culvert outfalls into a small pool area where it fills until finally enough water accumulates and then begins to crest over the brim of the pool. At that point the water either sheetflows in a northwesterly direction into the adjacent eucalyptus grove or meanders into the drainage ditch and heads towards Highway 1.

The applicant wishes to remove approximately six cubic yards of silt from this drainage ditch so that there will be a more positive drainage flow from the outlet of the pipe down towards Highway 1 and the wetlands areas located there. Staff is in support of this request and believes that the removal of the silt will help maintain a positive drainage flow in the project area and direct more water down

to the wetlands area near Highway 1. An increased supply of water could have a beneficial effect on the wetlands area and potentially increase the size of the wetlands.

Policy 7.7 Definition of Riparian Corridors

“Define riparian corridors by the “limit of riparian vegetation” (i.e., a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of freshwater: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.”

The project site and immediate vicinity do not meet the definition of a riparian corridor. None of the above listed species were identified during Staff’s site visit, nor by two separate biologists who examined the site. Vegetation at the project site consists of non-native annual grasses, English Ivy, eucalyptus trees and leaf debris.

B ENVIRONMENTAL REVIEW

This project is exempt under Section 15301 (Class 1. Minor addition and maintenance to existing structures) of the California Environmental Quality Act (CEQA). Staff’s analysis of this project has verified that the project is not within an Environmentally Sensitive Habitat Area or a riparian corridor. The work proposed and conducted so far will not cause significant impacts upon identified resources as discussed in the previous sections of this staff report.

C REVIEWING AGENCY

Public Works Department

D REFERRAL TO MID-COAST COMMUNITY COUNCIL

The Mid-Coast Community Council reviewed this project at their October 4, 2000 meeting. The Council had the following comments:

1. Regarding the actual permit and the work described, the Council found no issue with the work proposed.
2. The Council requested that this project be taken to a public hearing rather than remaining a staff-level decision. (*Staff contacted the applicant, who agreed to this request*)
3. The Council requested that “the County acknowledge the interdependence of this drainage with the identified habitats on the Mirada Surf property, so that any future development in this watershed be conditioned on the maintenance, protection and,

where possible, improvement on this water source ” (The importance of this watershed has been identified in the environmental review for the now defunct Mirada Surf project The County’s LCP contains policies intended to safeguard sensitive habitat resources All projects proposed within this watershed must be analyzed in light of these policies Additionally, the California Environmental Quality Act requires analysis of all projects and if significant impacts are identified, then mitigation measures are required)

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Location Map
- C. Vicinity Map
- D. Project Detail
- E. Letter from LSA Associates, dated September 29, 1999, evaluating biological resources at project site
- F. Letter from the County, dated December 30, 1999, to the applicant informing him of need for permits
- G. Correspondence from Barbara Mauz
- H. Correspondence from Ted Kaye
- I. Letter from California Coastal Commission (CCC) summarizing the results of the April 4, 2000 site visit
- J. Fax from LSA Associates, dated April 13, 2000 responding to the CCC’s April 7 letter
- K. Letter from CCC, dated May 2, 2000, defining the downstream portion of the project site as a drainage channel
- L. Letter from CCC, dated July 7, 2000, stating that the upstream portion of the project site is not an appeals jurisdiction stream

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County of San Mateo
Planning and Building Division

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number. .
PLN 2000-00493

Hearing Date. December 13, 2000

Prepared By: Michael Schaller

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

Regarding the Environmental Review, find:

1. That this project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15301, Class 1, relating to the expansion and maintenance of existing small structures

Regarding the Coastal Development Permit, find.

2. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms to the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
3. That the project, as conditioned below, complies with the requirements of the San Mateo County Local Coastal Program for the reasons stated in the staff report dated December 13, 2000

RECOMMENDED CONDITIONS OF APPROVAL

Planning Division

1. The project shall be constructed pursuant to the plans approved by the Planning Commission. Revisions to the approved plans shall be submitted to the Department of Public Works and the Planning Division for review and approval prior to commencing any work pursuant to the proposed revision.
2. This Coastal Development Permit shall be valid for one year from the date of approval. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable permit extension fees, no less than thirty (30) days prior to expiration.

- 3 The applicant is responsible for ensuring that all contractors minimize the transport and discharge of pollutants from the project site into local drainage systems and water bodies by adhering to the San Mateo County Wide Storm Water Pollution Prevention Program “General Construction and Site Supervision Guidelines,” including:
 - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
 - b. Removing spoils promptly, and avoiding stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to a local storm drain system or water body.
 - d. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

Erosion and sediment control during the course of this construction work shall be according to a plan prepared and signed by the applicant, and approved by the Department of Public Works and the Planning Division. It shall be the responsibility of the applicant to regularly inspect the erosion control measures and determine that they are functioning as designed and that the proper maintenance is being performed. Deficiencies shall be corrected.

4. The applicant shall include, as part of the above required erosion control plan, a plan for the permanent disposal of excess spoils generated by this coastal development permit. This permanent disposal plan shall also include erosion control measures
5. If silt removal is proposed between October 15th and April 15th, the applicant shall have prepared and submit for review and approval by the Planning Division, an erosion control program that is in compliance with the County’s applicable regulations.

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LSA Associates, Inc.
 Environmental Analysis
 Transportation Engineering
 Biology and Wetlands
 Habitat Restoration
 Resource Management
 Community and Land Planning
 Landscape Architecture
 Archaeology and Paleontology

September 29, 1999

Principals

Rob Balen
 Sheila Brady
 Les Card
 David Clore
 Steve Granholm
 Richard Harlachter
 Roger Harris
 Art Honrghausen
 Larry Kennings
 Carollyn Lobell
 Bill Mayer
 Rob McCann
 Rob Schonholtz
 Malcolm J Sproul

Dave Holbrook
 San Mateo County Planning Department
 Planning and Building Division
 455 County Center
 Redwood City, CA 94063

Subject: Site Assessment of Drainage Swale
 443 Magellan Avenue, Miramar

Dear Mr. Holbrook

Associates

Deborah Baer
 James Baism
 Connie Calica
 Steven W. Corklng
 Ross Dobbbert
 Gary Dow
 Richard Erickson
 Kevin F. Fisher
 Clint Keller
 Laura Lafler
 Benson Lee
 Judith H. Malamut
 Sabrina Nicholls
 M. W. "Bill" O'Connell
 Anthony Petros
 Lynette Stanchina
 Jill Wilson
 Lloyd B. Zola

LSA was asked to evaluate whether a drainage swale located at the corner of the Mirada Surf Property and the Doherty Property contains sensitive resource issues. An approximate 500 square foot area of the drainage was cleared of sediment and dead tree branches to improve drainage underneath the existing access road. In addition, fifteen feet of new pipe (2' diameter) was positioned at a 45 degree bend off the end of the old pipe. Backfill was placed over the new segment of pipe.

The drainage is located in a eucalyptus grove which contains a shrubby understory of non-wetland vegetation including English ivy (*Hedera helix*), Himalayan berry (*Rubus discolor*), poison oak (*Toxicodendron diversilobum*), and leaf litter. The drainage is ephemeral in nature and conveys water only during periods of rainfall. There is no evidence of scour or an Ordinary High Water Mark. Riparian vegetation that commonly exists in stream habitats is not present and there has been no wetland vegetation lost or destroyed due to excavation activities. For these reasons, the drainage is not likely to be subject to U.S. Army Corps of Engineers or Department of Fish and Game jurisdiction. The drainage swale also does not appear to meet the criteria for being a wetland or riparian corridor as described in the San Mateo County Local Plan and it was not mapped as a potentially jurisdictional feature in the 1998 Mirada Surf Environmental Impact Report.

09/28/99(P:\MIR830\SMCOUNTY.LTR)

157 Park Place
 Pt. Richmond, California 94801

Telephone 510 236-6810
 Facsimile 510 236-3480
 E-mail lsa2@ix.netcom.com

Other offices located in Berkeley
 Irvine, Riverside and Sacramento

The eucalyptus forest habitat is described in the 1998 Mirada Surf EIR as undesirable and invasive because it aggressively out-competes oaks and other more desirable native species. Still eucalyptus groves can provide relatively valuable habitat for a wide range of animal species including roosting habitat for the monarch butterfly during the winter months. Hawks, owls, and falcons may use tall eucalyptus trees occurring on the project site as roosts or as perches from which they locate prey (Mirada Surf EIR, 1998)

During 1998 investigations conducted for preparing the Mirada Surf EIR, EIP staff stated that sensitive raptor species may potentially nest in trees on or near the site, but no nests of these species were observed. In addition, no state- or federally-listed endangered, threatened, or rare animal species, nor their habitat were observed on the project site by EIP biologists.

No sensitive species within the eucalyptus grove were observed by LSA during the site assessment. No trees had been removed and excavation activities took place during late summer. Therefore, the clearing of the swale, at this point, did not result in loss of potential habitat to the monarch butterfly, nesting raptors, or any other special-status species along the San Mateo coast.

Please let me know if you have any questions or comments about the information presented in this letter.

Sincerely,

LSA ASSOCIATES, INC.



Lane Carr
Environmental Analyst

Environmental Services Agency



Planning and Building Division

County of San Mateo

Mail Drop PLN122 455 County Center · 2nd Floor · Redwood City
California 94063 · Telephone 650/363-4161 · Fax 650/363-4849

Board of Supervisors

Rose Jacobs Gibson
Richard S. Gordon
Mary Griffin
Jerry Hill
Michael D. Neven

**Director of
Environmental Services**
Paul M. Koenig

Planning Administrator
Terry L. Burnes

December 30, 1999

Dennis Doherty
P O. Box 2800
El Granada, CA 94018

Dear Mr. Doherty.

SUBJECT: Resolution of permit requirements for drainage culvert work on Mirada Surf (APN 047-033-010); County File Number MNA 1999-00033

The purpose of this letter is to inform you, and other interested parties, of Planning staff's decision to process a Coastal Development Exemption certificate for the drainage culvert work you completed on APN 047-033-010, which is directly adjacent and to the north of your parcel (APN 048-021-300), on which you received a Coastal Development Permit (County File Number CDP 98-0038) to construct a single-family residence on October 14, 1998, and for which you have a pending building permit (File Number BLD 1999-01030).

Based on your submitted materials (i.e., biologist's report, site topographical/boundary survey), site visits by Planning staff, and consultation with senior staff, it has been determined that the subject project would qualify for a Coastal Development Exemption under Section 6328.5 of the County Zoning Regulations (Coastal Development District), which includes: "the maintenance, alteration, or addition to existing structures other than single-family dwellings and public works facilities..."

As required by staff, you submitted a report by a qualified, professional biologist who concluded that the intermittent creek channel providing drainage to the culvert had no associated riparian or wetland habitat in any proximity to the excavation work completed for the culvert pipe section. Additionally, while some vegetation was cleared (as well as tree limb and leaf debris), it did not appear to be of a significant amount.

You will need to submit the enclosed Coastal Development Exemption certificate, signed by the appropriate owner/representative of the adjacent "Mirada Surf" property. Upon receipt of that certificate, its subsequent processing will include a copy sent to the California Coastal Commission in San Francisco.

Dennis Doherty
December 30, 1999
Page 2

If you have any questions, please contact me at 650/363-1837.

Sincerely,



David Holbrook
Planner III

DH:cdn - DJHJ1720_WCN.DOC

Enclosure

cc: Terry Burnes, Planning Administrator
Bill Rozar, Development Review Manager
Jim Eggemeyer, Senior Planner
Steve Scholl, California Coastal Commission
Jack Liebster, California Coastal Commission
Lane Carr, Biologist; LSA Associates, Inc.
April Vargas, Chairperson, Mid-Coast Community Council
Dave Byers, Attorney
Ric Lohman
Fran Pollard
Barbara Mauz

*add: Chris Thullag
+
Mid-Coast Parklands*

*Sent
2/2/00*

Attachment: G

January 6, 2000

TO: Diane Holbrook

From: Barbara K. Manz

P.O. Box 1289

El Granada, CA 94018

Phone: 726 4013

Re: Doherty Violations 048-021-300 and

5 acre Acres/
(E. side Mirada)
047-033-010 - Mirada Surf
Wetland Watershed

Serious environmental review needs to be immediately done on 048-021-300. Its proximity to a documented Creek and Mirada Surf Watershed sensitive habitat area requires this be done. The Bolsa Chica decision of April 1999 states that wetland protection for special habitat applies not only to the wetland itself, but also to areas adjacent to the watershed, sensitive habitat wetland area whose development could adversely impact the "biological diversity" of these areas.

There has been no resolution to the violations of Clear Cutting Mirada Surf trees all the way down the north side of Magellan. No survey had been done before this was done. No survey was done before grading - cut & fill - consequently Mirada Surf sensitive habitat was violated, these things were done with no permits.

Where trees that were a part of the Mirada Surf Watershed were cut down - replacement - significant trees need to be planted.

Doherty v. Nations 048-021-160
047-033-010

(2)

Illegal excavation of Quarry Park /
Mid Coast Parklands access road has
not been addressed. Mid Coast Parklands
has been left out of the picture. Their
rights have been violated and this must
be addressed.

The installation of pipe had no
permit — the Dohertys consulted
no party before they did this — did
no survey and violated a
documented creek/riparian area.

The use of McCracken Byers biologist
to evaluate this area was hardly an
independent assessment and
is not representative. This biologist
also evaluated Miranda Surf. Please,
have an independent biologist
assess this area.

Also refer to appeal of Staff decision
Re: APN: 048-021-160 as it relates.

No further development on the north
side of Magellan should be allowed.
Violations need to be properly
addressed and restoration of this area
needs to be done — pipe needs to be
removed, riparian area restored — fill
removed — trees planted — if the Planning
dept. had required a survey before
these things were proposed — but

Re: Doherty violations 048-021-300
048-033-010

(3)

The County did not know about the Doherty's actions - because they did these things without permits!

Please update + prepare an overlay of wetland areas, watershed, Sensitive Habitat and riparian areas so that prospective builders know where they are. These areas are State assets and the County should be protecting them.

Please keep me informed regarding 048-021-300 and 048-033-010

Thank-You,

Barbara K. Maas

California's Coastal Commission
S.M. County Board of Supervisors

10: Planning Commission San Mateo Co
attn. Mr. David Holbrook
County Gov. Center
590 Hamilton St. Redwood City

Re. PLN 1999-00654 - Miranda Surf Project
appeal notice El Granada

Dear Mr. Holbrook and the Planning Commission,

I recently toured the Miranda Surf project area in El Granada and observed recent excavations as well as new storm drain pipe located on the upper portion of the Miranda Surf acreage. This work appears to have been done in an attempt to divert a natural stream bed. I believe that this work as well as the planned development of home sites in this area will most certainly impact the wetlands area below and adjacent to this site. This would appear to be in violation of the Bolsa Chica court decision.

Sincerely,
Neil J. Lape
815 Tiered Alta St.
Moss Beach, Calif 94038

CALIFORNIA COASTAL COMMISSION

45 FREMONT SUITE 2000
SAN FRANCISCO CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



7 April 2000

San Mateo County Planning & Building Division
ATTN: Dave Holbrook
Mail Drop PLN 122
455 County Center
Redwood City, CA 94063

RE: Mirada Surf/Doherty

Dear Dave:

I am writing regarding the alleged Coastal Act/LCP violations on the Mirada Surf/Doherty properties. During our site visit of Tuesday, April 4, 2000, Chris Kern, John Dixon, and I looked at the culvert repair/expansion, the access/haul road, the drainageway, the areas of tree removal, and the Mirada Surf property. Pursuant to our site visit, John Dixon, our biologist, indicated that he believes that the drainageway located near the access road is actually a streambank, under the Coastal Commission's definition, as well as the Department of Fish and Game's definition of a stream. This stream constitutes an environmentally sensitive habitat area (ESHA), and, thus, any development proposed within 100 feet of the ESHA would be appealable to the Coastal Commission. It is our intent to revise our post-certification map to reflect this change.

needs CPP
↪

In addition, as we discussed on site, the County's LCP regulations for repair and maintenance exclusions limit exclusions to repairs that do not increase the size of the structure being repaired. Since an addition to the culvert was constructed, increasing its size, it appears that the work done on the culvert does not properly qualify for an exemption under the County's regulations. You indicated to Mr. Doherty that an after-the-fact coastal permit would be required for the culvert repair and expansion. This coastal permit would be appealable to the Coastal Commission. We further concluded that the pending coastal permit for a single-family residence located near the culvert would be appealable to the Coastal Commission, based on its proximity to the stream.

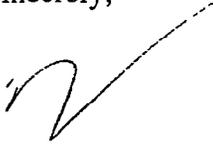
We have yet to determine if the access/haul road graded by J. L. Johnson is exempt from coastal permit requirements because it was allegedly graded pursuant to a timber harvest plan. We will look into that matter.

DAVE HOLBROOK

Page 2

Finally, based on his site visit, it is Dr. Dixon's opinion that the boundaries of LSA's wetland survey of the Mirada Surf property seems to be accurate.

Sincerely,

A handwritten signature in black ink, appearing to be 'JO GINSBERG', written in a cursive style.

JO GINSBERG
Enforcement Analyst

cc: Chris Kern —

LSA

LSA ASSOCIATES INC
57 PARK PLACE
PT RICHMOND CALIFORNIA 94801 510 236 63 0711
510 236 5160 FAX

FAX TRANSMITTAL

FIRM San Mateo County Planning & Bldg DATE April 13, 2000

ATTENTION Dave Holbrook PROJECT NUMBER MEN 030

FAX NUMBER 650/363-4849 PROJECT NAME Mirada Surf

FROM Steve Foreman

SENT BY 510/236-6810

NUMBER OF PAGES INCLUDING COVER 1

CC. _____

- URGENT
- AT YOUR REQUEST
- FOR YOUR INFORMATION
- FOR YOUR REVIEW
- FOR YOUR APPROVAL
- HARD COPY TO FOLLOW
- OTHER _____

COMMENTS Dave - Thank you for sending the copy of the 4/7/00 letter from the Coastal Commission. I have a couple of concerns with the statements in the letter. First, I disagree that the drainage way meets the Coastal Commission's definition as a stream. We also understand that John Dixon stated a different conclusion in the field. Their definition of a stream is "a natural watercourse as designated by a solid line or a dash and three dots symbol shown on the United States Geological Survey map most recently published, or any well-defined channel with a distinguishable bed and bank that shows evidence of having contained flowing water as indicated by scour or deposit of rock, sand, gravel, or debris." One - the channel does not show on the most recent USGS map. While it may be shown on some older maps that the local opposition groups have found, the definition does not acknowledge these older sources. Two - Our main reason for not calling the drainage way a stream is the lack of a defined bed a bank as defined by a scour line. As we read the definition, neither of these criteria are met. Third - even if the commission staff still considers this a stream, the LCP buffer is 30 feet from the midpoint of the channel (riparian with no vegetation) and not 100 feet as the letter states. I don't see a mandatory 100 foot buffer from ESHA's in the LCP. This letter has a lot of implications for the site and surrounding properties. The appeal of Craig Menden's CDP for a single family residence is on April 25 I believe. The creek definition could also affect the site planning for Mirada Surf. I would like to discuss this with you on how we can get his letter clarified or corrected. Do we need to have Fish and Game make the call?

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-6400

Christ Ann.

May 2, 2000

Miroo Brewer
Planning and Building Division
County of San Mateo
Mail Drop PLN122 – 455 County Center, 2nd floor
Redwood City, CA 94063

Re: Notice of Final Local Decision, Craig Menden, File Number PLN 1999-00654, 419
Magellan Avenue, Miramar (APN 048-021-160)

Dear Ms. Brewer:

I am responding to your request for an opinion of the Executive Director regarding the appealability of a project approved by the Board of Supervisors on April 25, 2000 at the above-mentioned location. You indicated that County staff had determined at the time of application filing that the project is not appealable, but that Barbara Mauz has challenged that determination.

Commission staff has done a quick check of information relating to the site that touches on whether the project should be treated as appealable. Our mapping staff has verified that the site is not shown as appealable on the "post-certification" appeal map that the Coastal Commission adopted in connection with certification of the San Mateo County Local Coastal Program. You indicated to me on the telephone, furthermore, that the use in question (a single-family dwelling) is a principally permitted use within the applicable zone district, as opposed to a conditional use that would trigger appealability to the Coastal Commission. You also stated that the development is not located within a "sensitive coastal resource area" as defined by the Local Coastal Program, which could also trigger appealability. Finally, you stated that the development is not within 100 feet of a stream or wetland, the existence of which could make the project appealable. The map you sent me indicates a "drainage channel" running within 35 feet of the Menden project site. Based on the evidence presented, the staff has determined that the drainage channel is not a "stream" for purposes of establishing appeal jurisdiction under Commission Regulation Section 13577. Therefore, I do not see a reason to disagree with the County's initial interpretation that the project is not appealable to the Coastal Commission.

Truly yours,

A handwritten signature in cursive script that reads "Steven F. Scholl".

Steven F. Scholl, AICP
Deputy Director

cc: Craig Menden
Barbara Mauz

CALIFORNIA COASTAL COMMISSION

45 FREMONT SUITE 2000
SAN FRANCISCO CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



July 7, 2000

David Holbrook
Planning and Building Division
County of San Mateo
Mail Drop PLN122
455 County Center, 2nd Floor
Redwood City, CA 94063

RE: Confirmation that drainage is not an Appeals Jurisdiction Creek, File Number PLN 1999-00654, APN 048-021, 419 Magellan Avenue, Miramar, San Mateo County

Dear Mr. Holbrook:

This letter confirms that the creek channel east of the drainage culvert on the Mirada Surf site near Magellan Avenue east of Highway 1 is not an appeals jurisdiction stream as defined by the Coastal Commission regulations. According to Coastal Commission regulations an action within 100 feet of a stream is appealable to the California Coastal Commission if the stream is "... mapped by USGS [United States Geological Survey] on the 7.5 minute quadrangle series, or identified in a local coastal program" (Section 13577, Calif. Code of Regulations). There is no stream within 100 feet of the subject development that meets either of these tests. Therefore, the County's action approving a single-family dwelling on the property is not appealable to the California Coastal Commission.

Please feel free to call me if you have any additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Jane Steven".

Jane Steven
Coastal Planner
North Central Coast District