

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400

Th-11a



RECORD PACKET COPY

Filed: September 27, 2004
49th Day: November 15, 2004
49 day waiver: October 1, 2004
Staff: ALW – SF
Staff Report: October 28, 2004
Hearing Date: November 18, 2004

STAFF REPORT – APPEAL SUBSTANTIAL ISSUE

APPEAL NO.: A-2-PAC-04-016

APPLICANT: Steven E. Raby

LOCAL GOVERNMENT: City of Pacifica

ACTION: Approval with Conditions.

PROJECT LOCATION: 252 Shoreview Avenue, Pacifica, San Mateo County
APN 009-281-240

PROJECT DESCRIPTION: Construction of a 1,200 square foot, two-story addition and second story deck to the rear of the existing single-family residence.

APPELLANT: Mike Matteucci

Executive Summary:

On September 7, 2004, the City of Pacifica approved the construction of a 1,200 square foot, two-story addition and a 403 sq. ft. second story deck, with a staircase descending to the groundfloor, to the rear (south) of the existing single-family residence located at 252 Shoreview, Avenue, Pacifica, San Mateo County. There is an existing 1,526 sq. ft. house on the property. The property is located in a residential neighborhood, and properties directly to the east and west of the site are developed with single-family residences. A multifamily residential complex, consisting of several two and three story apartment buildings is located immediately south of the property.

A-2-PAC-04-016 (Raby)

south, which have a General Plan designation of High Density Residential and a zoning classification of R-3 (Multifamily Residential).

The approved development includes construction of a 1,200 square foot, two-story addition and a 403 sq. ft. second story deck, with a staircase descending to the groundfloor, to the rear (south) of the existing single-family residence.

3.0 APPEAL PROCESS

3.1 Local Government Action

On September 7, 2004, the Planning Commission of the City of Pacifica approved coastal development permit CDP-247-04 for the above-described development.

The City Planning Department subsequently transmitted to Coastal Commission staff a Notice of Final Local Decision dated September 20, 2004 and received on September 24, 2004 stating:

- On September 7, 2004, the City had conditionally approved a coastal development permit for the subject single-family residence;
- The City appeal period for this action ended on September 17, 2004; and
- The City action is appealable to the Coastal Commission.

3.2 Filing of Appeal

The Commission's appeal period commenced on the day the notice of final local action was received and ran for ten working days thereafter (September 27, 2004 to October 8, 2004).

On September 17, 2004, the Commission received an appeal of the City's action on the approved development from Mike Matteucci (Exhibit 4). This appeal is considered deemed filed on the first day of the 10 working day appeal period, September 27, 2004. Following receipt of the appeal, the Commission mailed a notification of appeal to the County and the applicant. In accordance with Section 13112 of the California Code of Regulations, on September 30, 2004, staff notified the local government that the local permit was stayed and requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The Commission received the local record from the County on October 6, 2004.

3.3 Appeals Under the Coastal Act

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Coastal Act Section 30603 provides, in applicable part, that an action taken by a local government on a coastal development permit application may be appealed to the Coastal Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any

4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

If the Commission chooses not to hear an appeal, the appellant nevertheless may obtain judicial review of the local government's action on the coastal development permit by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

4.0 SUBSTANTIAL ISSUE ANALYSIS

Appellants' Contentions

The appeal includes the following contentions (see Exhibit 4):

1. "Four homes that have a view of the Pacific Ocean will lose their view. Public Resources Code Section 30251 is the reason, we hope you still let this appeal go forth."
2. "[T]his project is much too big for this block."

4.1 Appellants' Contentions that Raise No Substantial Issue

4.1.1 Blocking of Coastal Views

Contention

The appellants contend that the approved development will block views to the ocean from four nearby private residences. Additionally, the appellants contend that this project is out of character for the surrounding neighborhood.

Applicable Policies

City of Pacifica LCP Policy 24 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Discussion

The LCP policy reflects the precise language found in Section 30251 of the Coastal Act. This policy is directed towards the protection of important public resources, such as public views and scenic coastal areas, and is not applicable to impacts to private views from private property. The view impacts described by the appellant include several neighbors losing views from areas of their homes and backyards. The City LCP does not contain an ordinance or other enforceable mechanism to protect private views from private properties. In the City's September 7, 2004, Staff Report to the Planning Commission, the City found:

A-2-PAC-04-016 (Raby)

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act.

The approval of the proposed project by the City of Pacifica is consistent with the certified LCP. The approved development does not affect the scenic and visual qualities of a coastal area, and does not impact public views to and along the ocean and scenic coastal areas, consistent with LCP Policy 24. Additionally, the City LCP does not contain an ordinance or other enforceable mechanism to protect private views from private properties. The city also found that the approved development occurring in the rear portion of the property would minimize impacts to the overall neighborhood character, and would be consistent with the nature of the existing developments immediately to the south. Finally, the appellant has made no assertions of inconsistency with the public access policies of the Coastal Act.

2. The extent and scope of the development as approved or denied by the local government.

The City's approval of the proposed development is consistent with the scale and character of the existing development in the surrounding neighborhood.

3. The significance of the coastal resources affected by the decision.

There are no significant coastal resources affected by the decision.

4. The precedential value of the local government's decision for future interpretation of its LCP.

The City's approval of the proposed project is consistent with the requirements and procedures of the certified LCP, and will not adversely affect future interpretations of its LCP.

5. Whether the appeal raises only local issues, or those of regional or statewide significance.

The appeal raises only a private view, i.e., a local issue, and has no regional or statewide significance.

Conclusion

The approved development is a small addition to an existing residence. The loss of private ocean views from several nearby residences is not a regional or statewide issue of significance. The blockage of private views to the ocean resulting from the approved development is also not a significant adverse coastal resource impact. Moreover, the approved development meets the LCP standards relating to height, lot coverage and setback requirements. Therefore, no significant question exists as to whether or not the approved development is consistent with the



2-2-PAC-04-016
Exhibit 1
Regional Location
Map

A-2-PAC-04-016 (Raby)

2-02-PAC-04-016 Exhibit 3

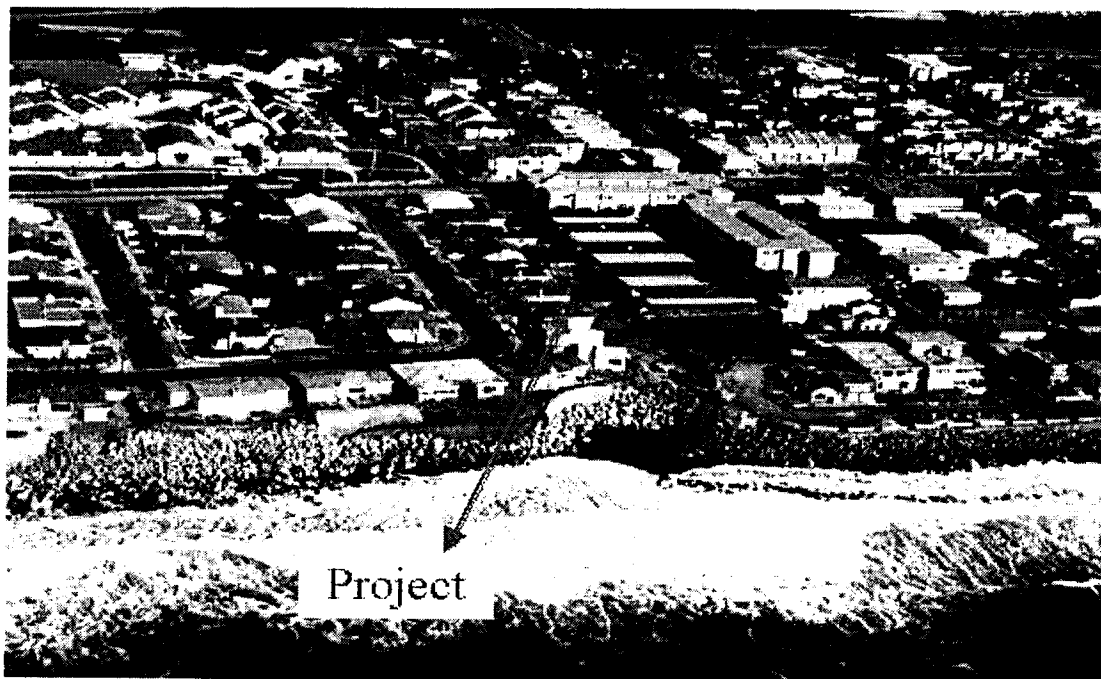
Project Location Photo

California Coastal Records Project

N37 38.36 W 122 29.90

Image 5886 Mon Sep 30 15:38:54 2002

Copyright © 2002 Kenneth & Gabrielle Adelman. All rights reserved.



CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260 FAX (415) 904-5400



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Mike Matrucci
Mailing Address: 285 Shoreview Ave
City: Pacifica CA Zip Code: 94044 Phone: 650 359 3943

SECTION II. Decision Being Appealed

RECEIVED

SEP 17 2004

CALIFORNIA COASTAL COMMISSION

- Name of local/port government:
Pacific Planning Commission
- Brief description of development being appealed:
Addition of a new 2 story addition and deck to an existing single family home. 1200 sq. feet of new home, 25 feet in height
- Development's location (street address, assessor's parcel no., cross street, etc.):
252 Shoreview Ave Pacifica CA 94044
APN 009-281-240
- Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-PAC-04-016
DATE FILED: 9/27/2004
DISTRICT: North Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: Sept 7, 2004

7. Local government's file number (if any): CDP 247-04

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Steven E. Raby
252 Shoreview Ave Pacifica CA 94044
A.P.N. 009281240

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) LEON Smith
PO. Box 2386 EL Granada 94018

(2) Lola matteucci
274 Shoreview Ave Pacifica CA 94044

(3) Jesus AND PEERY ESPINOZA
P.O. Box 1162 Pacifica, CA 94044

(4)