

**Appeal # A-2-MAR-09-010
Agenda #W19a**

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AUG 06 2009

CALIFORNIA
COASTAL COMMISSION

**Applicant Crosby's Statement
Before the California Coastal Commission
In Support of Local Decision by Marin County Board of Supervisors
Sustaining Coastal Permit #CP 09-3 with Conditions**

I

Procedural Background

On December 11, 2008, Marin County Deputy Zoning Administrator, following a duly noticed public hearing, adopted a resolution approving, Applicant's Coastal Permit Application for an residential addition with conditions to protect views from the neighborhood access path adjoining the West end of the subject property.

On December 17, 2008 Richard Kohn, Brenda Kohn, Edward Hyman and Deborah McDonald-Hyman ("Appellants") filed their petition for Appeal of the Zoning Administrator's approval.

On February 9, 2009, the Marin County Planning Commissioners following a thorough and careful review of the Application and the Appeal that included site inspections voted unanimously (7-0) to deny Appellants appeal to overturn the Deputy Zoning Administrator's decision and to grant the permit with conditions.

On March 31, 2009, the Marin County Board of Supervisors voted unanimously (4-0) to deny the appeal of Appellants and, thereby, sustained the Planning Commission's grant of the subject permit with conditions.

This matter is the Appellants appeal to overturn the final local decision of the Marin County Board of Supervisors denying their appeal.

II Points in Opposition to Appeal

Applicant respectfully agrees with all of the Recommendations and Findings of the August 12, 2009 Staff Report with respect to the pending Appeal and respectfully requests the Coastal Commissioners adopt the Staff Report as submitted. Applicant submits the following additional comments and observations in response to the within Appeal.

The speciousness of their appeal is evidenced by Appellant's quoting from the Local Coastal Plan (LCP) page 65 (21.) that "...to the maximum extent feasible, new development shall not impair or obstruct an existing view of the ocean, Bolinas Lagoon or the National or State parklands from Highway 1 or Panoramic Highway. The record is clear that no part of the subject property, the proposed addition or, in fact, Ahab Drive is viewable from or connected to Highway 1 or from Panoramic Highway. Ahab Drive is not a through street, but dead-ends to a cul-de-sac. Moreover, there are no designated public viewing sites or provisions for general public parking.

The subject property and proposed alternations are more than 300 feet from the ocean bluff (actually measuring approximately 550 feet from the bluff at their closest point).

The majority of the proposed alterations are, in fact, below the elevation of Ahab Drive, and every element of the existing house and proposed alterations are less than five feet above the elevation of Ahab Drive. The house and proposed alterations are located in the middle of an established, hillside residential development of approximately one hundred and fifty five existing homes.

Appellants reference to the LCP page 56 Visual Resources that "...the primary concern of the Coastal Act is to protect views to scenic resources from public roads, beaches, trails and vista points" is misplaced and has no relevance to the proposed addition. This is so as the "substantial view impairment" Appellants complain of is with reference to a view from the top of the neighborhood right of way stairs shown in the Photo Exhibit A. Any

view impairment, at this location is *de minimis*, and fleeting in nature as shown in the Photo Exhibit B. Exhibit B confirms that as a person ascends or descends the right of way path, any slight view impairment occurs only for an estimated distance of eleven feet (between the two white poles) running from a point past the top of the stairs down to the point where the view is completely obscured by existing vegetation and trees.

The stairs are 45 feet in length and the entire length of the neighborhood path exceeds 400 feet along which vistas of the ocean and coast line come in and out of view through and between residences and trees as one proceeds down the path.

The top of the right of way stairs measures only 3 feet by 4 feet 2 inches and in no way can be considered a viewing platform (See: Exhibit B page 1). The stairs have no signs identifying the stairs as for public use. Indeed is doubtful that any non residents are aware of the stairs which were constructed for residents' use and not for the general public. The stairs remain in some disrepair with missing steps and railings. Finally the right of way path is maintained by the Muir Beach Community Services, not by National or State Park services or the County of Marin. (See: Exhibit C from Maury Ostroff, MBCS Manager)

Upon implementation of the landscape planning conditions imposed by the County of Marin, the removal of specified trees and shrubs will open up new views of the coast line and beach. (See: Photo Exhibit D)

The Appellants argue that the proposed development violates the Muir Beach Community Plan that states on page 12 paragraph 6 stating

"We are concerned with the often destructive effects of new construction and remodeling of homes which are not consistent With the small scale residential character of the old community."

However, the proposed project is an addition of only 1,559 sq/ft to an existing 2,058 sq/ft house on a large lot just over one acre in size. This is hardly destructive and does not violate the Muir Beach Community Plan in

any way. There are at least 5 other homes as large or larger in the community including Appellant Hyman's home at 39 Seascape Drive.

The Muir Beach Community Plan was written from September 1971 to June 1972 and submitted to the County in March 1973 before many of the larger newer homes were built in the community.

The Muir Beach Community Plan states on page 12 paragraph 5:

"The size of the lots in Muir Beach ranges from 3,000 sq. ft. to about 10 acres. The present Marin County zoning requires lots to be a minimum of 10,000 square feet in Old Muir Beach and one acre in Seascape. Some parcels adjoining Seascape require a minimum of two acres per lot. Many undersized lots in both areas are legal but non-conforming building sites. This community plan adopts the County regulations governing lot size and setbacks now in effect."

While the proposed project is not technically located in the Seascape subdivision it has more in common with Seascape than it does with "Old Muir Beach" where most of the homes are located on lots of 10,000 sq. ft., some are on smaller lots (those homes located on Sunset Way, Pacific Way and Cove Lane etc.). Of the seven homes located on Ahab Drive, four are on lots of over 1 acre and the other three are on lots of nearly ½ acre.

Most importantly, the proposed project meets all of the County of Marin's regulations regarding lot size and setbacks now in effect. Because the Muir Beach Community plan adopted the Marin County regulations governing lot size and setbacks, the project meets the requirements of the Muir Beach Community Plan and is not in violation of it as the Appellants contend.

For the foregoing reasons it is requested that the California Coastal Commission adopt the findings and recommendations of the Staff Report dated August 12, 2009, reject Appellants' appeal, uphold the Local Decision of the Marin County Board of Supervisors to grant my Coastal Permit.

Respectfully submitted,

Signature on File

Timothy Crosby, Applicant

Attachments:

EXHIBITS A, B , C & D



EXHIBIT A - page 1 of 1
Photo taken from top of
right of way stairs showing
end of railing for reference.



↑
Top of stairs measures 4' 2" by 3'

EXHIBIT B - page 1 of 2

Photo shows start of "view" as a person passes white pole on left. View completely screened out by trees when past the right pole located downstairs.



EXHIBIT B - page 2 of 2
Photo shows location of "View Window" between the poles. The poles are approx. 11 ft. apart.

SmartZone Communications Center Collaboration Suite

timlcrosby@comcast.net

Re: Tim Crosby Permit - Coastal Commission May 27, 2009 6:43:19 PM
Appeal EDT

From: maury.ostroff@gmail.com

To: timlcrosby@comcast.net

The Muir Beach Community Services District maintains all pedestrian easements and pathways within the residential portion of Muir Beach. In most cases these pathways are on land actually owned by the CSD, in some cases they are easements granted for public traffic on privately owned land.

The path that runs from the west of your house from Ahab Drive down to Sunset Way is definitely maintained by the Muir Beach CSD. But, I am not exactly sure in this case who owns the underlying land. In the case of the path that runs between Starbuck and Seacape, there is a definite area of parkland about 50 feet wide that is clearly owned by the CSD and is shown clearly on parcel maps. However, on the assessor maps the county maintains on their web site it does not show a separate lot or area for the Ahab to Sunset path. In any event, ownership of the land is moot because the path has been used as a public path for so many years that it is in effect a public easement, (again, an easement/path that the MBCSD maintains.)

I gave a qualified answer as to the "residential" portion of Muir Beach because there are numerous trails on the beach itself and up at the Muir Beach Overlook that are part of the Golden Gate National Recreation Area and are maintained by the National Park Service.

Marin County only maintains the roads, and in our case only three roads: Ahab Drive, Seacape Drive, and Starbuck Drive.

On Wed, May 27, 2009 at 3:10 PM, <timlcrosby@comcast.net> wrote:

Hi Maury, as you know my permit is being appealed to the California Coastal Commission. Doug Macmillan who works for the Commission and is handling my appeal wanted to know who maintains the neighborhood pathways at Muir Beach. Mr. Macmillan at first thought it was the County of Marin. I told him I was quite certain that it was the Muir Beach Community Services District that maintains them, (cutting the grass on the paths/stairs trim branches etc.). Given that you are the District Manager of MBCSD I thought I'd ask you or someone there at MBCSD to verify whether or not this is the case.

If you or someone could respond to this e-mail that would be great.

Thanks,

EXHIBIT C – page 1 of 1
Maury Ostroff, MBCS
Manager, statement



← White Pole

22 ft

EXHIBIT D – page 1 of 5
Photo shows location of “New View” that will open up with removal of trees under landscape plan. Starting at white pole down stairs past end of railing is 22 ft.

07/25/2009



EXHIBIT D – page 2 of 5
Photo shows location of “New View” upon removal of trees & shrubs under landscape plan.



Cut Branch Marker

EXHIBIT D – page 3 of 5
Photo shows location of “New View” of coast line behind trees and shrubs.



↓
Cut Branch Marker

EXHIBIT D—page 4 of 5

Photo shows view of coast line and hill above Muir Beach through the tree branches. Muir Beach Cove is located behind branches in lower left of photo.



EXHIBIT D – page 5 of 5
Photo shows location of coast
line view behind tree near
bottom of stairs

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CALIFORNIA
COASTAL COMMISSION

Agenda # W19a
Application # A-2-MAR-09-010
Barbara Britz
7573 Terrace Drive
El Cerrito, CA 94530
415-577-2140
OPPOSE

California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
By Facsimile (415) 904-5400

August 5, 2009

Dear Commissioners:

I frequently visit Muir Beach and have done so for several years. I love the view of Muir Beach cove from the top of the trail at Ahab Drive. The view of Muir Beach cove from there is majestic and beneficial to everyone's psychological health. Everyone deserves that view, not only those who are lucky and wealthy enough to live there.

I was extremely dismayed to read in the Coastal Commission staff recommendation a statement that only a few Muir Beach denizens use the trail. I am one of many, many non-residents who use this beautiful route regularly to go down to the beach. I'm sure it is even benefits our aerobic and cardiovascular health.

As a San Francisco public servant, I understand the need for reasonable development. Doesn't reasonable development include the idea of preserving what makes West Marin one of the most beautiful and treasured places in the entire world? The Crosby project is simply not reasonable. It unnecessarily destroys an invaluable public vista, one that is that is without parallel anywhere. I believe guarding our coastal region's integrity dictates that the Commission should compel Mr. Crosby to redesign his plans to preserve the Muir Beach cove view, allowing him to enjoy the view along with the public.

I was further astonished to read in the Commission staff recommendation that the view of Muir Beach cove from the top of the trail would not be completely blocked by Mr. Crosby's project - to the contrary, that is precisely what his project would do, unless drastically redesigned.

The view of Muir Beach cove is precious. Its destruction by Mr. Crosby would be nothing short of outrageous. Please reject the Crosby application and ask him to redesign his project. Revising the plans in order to preserve the view could be done quite easily on this site. I ask your assistance in saving this world-class view of Muir Beach cove.

Respectfully,
Signature on File
Barbara Britz

Hazel L. Williams
3525 Maybelle Avenue Apt. F
Oakland, Ca. 94619
(510) 393-9577

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CALIFORNIA
COSTAL COMMISSION

August 6, 2009

California Costal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, Ca. 94105-2219

RE: Agenda #W19a
Application # A-2-MAR-09-010
Hazel L. Williams
OPPOSE

Dear Commissioners:

Over the last year I've come to frequent Muir Beach. I particularly appreciate the view of Muir Beach Cove. I go to the beach and park on Ahab Drive. The view of Muir Beach at the top of the stairs is gorgeous and irreplaceable.

I read in the Costal Commission staff recommendations that only a few Muir Beach residents use that trail. Those of us who go to the beach, and by people from everywhere who love Muir Beach use it.

This project is not right for this costal location. The commission should reject Mr. Crosby's current design.

I reject the commission staff's recommendation arguing that the view of the Muir Beach Cove at the top of the trail would not be completely viewed.

Mr. Crosby's current project would permanently end this marvelous view.

Please keep it for me and my daughter's generations and my grandchildren.

Please reject this project.

Respectfully,

Signature on File

Hazel L. Williams

Agenda # W19a
Application # A-2-MAR-09-010
Lonna Richmond
OPPOSE

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California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

To Whom it May Concern:

First of all I'd like to state that I have nothing personal against Mr. Timothy Crosby. He seems to be a fine person and a very nice member of our community of Muir Beach. But, I do oppose his construction plans for his residence on Ahab Drive.

I have lived here for 15 years and love this community. I walk around the neighborhood every day and appreciate the beautiful ocean views that Muir Beach offers. That is what makes Muir Beach the special place that it is. Years ago I spent some time in the city of Malibu and remember thinking that you would never know there was an ocean behind all the houses and fences and walls. If everyone built what Mr. Crosby proposes, it would look just like that-houses and fences and walls. The reason people move to Muir Beach is because it is more than that and we must protect those views that make this community different from Malibu and other coastal communities.

Thank you for your consideration and I hope you will deny this permit.

Sincerely, _____

Signature on File

Lonna Richmond
45 Sunset Way
Muir Beach, CA 94965