

Sept. 28, 2023

Nathan MacBeth,
Planning Dept,
701 Ocean St, 4th Fl,
SC 95060 831-454-3118

Applicant is Dennis Norton 712 C Capitola Rd, Capitola, 95010 831-818-0335

Dear Nathan,

I understand from the posting that a second story ADU is planned at 181 Seacliff Drive, parcel 042-081-06 in Seacliff, Aptos, with the application #211129.

People enjoy the public space offered by the field on the bluff which is State Park Property. The proposed construction will dramatically change the view for visitors to Seacliff State Park.

All the houses along the bluff are single story. The only 2-story houses are on Seacliff Drive **and those are not in the viewscape of the Monterey Bay** for those enjoying the State Park. Building a second story will alter the nature of the bluff for all those who enjoy walking along the State Park field.

Is there some reason the owners cant's consider expanding on the same level instead of building up? A second story is going to be an eye sore for everyone who now enjoys the ocean view.

Please clarify whether the bluff is protected by the Parks Commission or the Coastal Commission and what restrictions apply. Doesn't the Coastal Commission or zoning laws have height restrictions or reject second story add-ons along our bluff?

Surely I'm not the only person concerned about this. Please call or send a reply to Lilast@aol.com.

Thank you,



Lila Steiner
Aptos, CA
408-472-9435

Cc; Matt Machado, Dir. DPW
Lila Nazari, California Coastal Commission
Zach Friend, Supervisor
Dawn Addis, State Representative
SC Co. Zoning Administrator



October 4, 2023

VIA EMAIL

Zoning Administrator
c/o Nathan MacBeth
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
nathan.macbeth@santacruzcountyca.us

Re: Coastal Development Permit (Application #211129)
181 Seacliff Drive, Aptos
Zoning Administrator Agenda for October 6, 2023; Agenda Item #1

Dear Zoning Administrator:

This law firm has been retained by Protect Seacliff, a group of residents opposed to the above referenced Project and we submit this letter opposing this Project on behalf of our client. As stated in our previous letter for the September 1, 2023 Zoning Administrator hearing, the Project does not comply with the Local Coastal Program (LCP) and the California Environmental Quality Act (CEQA). Therefore, the Project should be denied.

A. The Project Fails to Comply with the LCP Because the Project is Visible From Seacliff Beach and the Photos and Renderings Produced in the Staff Report Were Improperly Taken From a Strategic Viewpoint

The simulations attached to the Staff report are not reliable proof of the Project's lack of visibility from Seacliff Beach. The simulations and photo were taken near the picnic areas along Seacliff Beach, which are nearer to the bluff. In our previous letter, we also acknowledged that 181 Seacliff Drive is not currently visible from this viewpoint, and that from the beach itself it has a low profile. But the photo and simulations are only relevant from the picnic area closest to the bluff. Clearly, the project will result in increased visibility from the beach and will be higher than adjacent homes on the bluff. Moreover, once there is a two-story home on the bluff, future findings will state that other two-story homes proposed on the bluff are consistent with surrounding homes. This will result in a cumulative visual impact, which must be analyzed in the required environmental review and cannot be ignored.

As a result, the proposed Project is inconsistent with the LCP, including with respect to LUP Policies 5.10.2 "Development within Visual Resource Areas", 5.10.4 "Preserving Natural Buffers", and 5.10.7 "Open Beaches and Blufftops." LUP Policy 5.10.2 acknowledges the importance of visual resources and requires that projects be evaluated against their unique environment (i.e., the surrounding projects and natural context), and LUP Policy 5.10.7 prohibits

the placement of new permanent structures that would be visible from the public beach except where allowed on existing parcels of record and “where compatible with the pattern of existing development.” These visual resource provisions are further codified in the requisite coastal permit findings (see, County Code section 13.20.110(E)). The proposed Project would increase the visibility of the home on the Project Site and would represent a significant intrusion into the public viewshed. It is clear that the Staff Report’s conclusions regarding the visual impacts and compliance with the LCP are erroneous.

B. The Project is Not Consistent with the Surrounding Residential Development Because it Would Create the Only Two-Story House on the Bluff Top

The Staff Report erroneously concludes that the proposed Project is in conformance with the LCP and compatible with the existing single-family homes surrounding the Project Site. The Project would be the only two-story, single-family home on the bluff top. The two immediately adjacent homes and the other three bluff top homes on the other side of the public parking/viewing area along the ocean side of Seacliff Drive are all single-story. The only two-story homes in this neighborhood are not directly on the bluff top. Unlike the Project, the two-story homes are set farther back from the bluff on the opposite side of Seacliff Drive. Therefore, Staff cannot conclude that the Project conforms with the LCP.

C. The Project is Subject to CEQA

None of the CEQA exemptions apply to the Project. As stated in our previous letter, “[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.” (*Id.* at 125.) As such, “a categorical exemption should be interpreted narrowly to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Los Angeles Dept. of Water & Power v. County of Inyo* (2021) 67 Cal.App.5th 1018, 1040.)

The Staff Report reiterates its previous stance that the Project is exempt under the Class 1 exemption for existing facilities (14 Cal. Code Regs. Section 15301) and Class 3 exemption for new construction or conversion of small structures (14 Cal. Code Regs. section 15303). CEQA provides for several exceptions to categorical exemptions and, if an exception applies, the exemption cannot be used, and the agency must instead prepare an initial study and perform environmental review. (*McQueen v. Bd. of Dirs.* (1988) 202 Cal.App.3d 1136, 1149; *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles*, *supra*, 161 Cal. App. 4th at 1187.) CEQA Guidelines §15300.2 implements the exceptions to the categorical exemptions.

Because the Project impacts an environmental resource of critical concern, the Project cannot qualify for a Class 3 categorical exemption. Though the Notice of Exemption erroneously claims that none of the conditions in 14 Cal. Code Regs. Section 15300.2 apply, section 15300.2(a) dictates that the Class 3 exemption does not apply “where the project *may*

impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.” (Emphasis added.) Coastal bluffs are precisely the type of resource so designated. The Staff Report for the September 1, 2023 hearing admits “that the project site is considered a ‘sensitive site’ as defined un SCCC 13.11.030 (Definitions) as it is located in a mapped scenic area and located on a coastal bluff.” (Staff Report, September 1, 2023, p. 2.) “[W]here there is any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper.” (*Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster Azusa* (1997) 52 Cal.App.4th 1165, 1191 (quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 205-206).) The Class 3 exemption here is improper. The Staff Report for the October 6, 2023 hearing baldly states that “Though the project site is located within an area mapped as a scenic resource in the County General Plan, the use of these exemptions is appropriate.” (Staff Report, p. 2.) The Staff Report’s conclusions that there are “one and two story singly family (sic) construction and the proposed project is consistent with the range of architectural styles found in the vicinity” ignores the fact that the proposed project is on a coastal bluff and not consistent with other bluff top homes that are within the mapped scenic area.

Additionally, the Project is not within the scope of the claimed Class 1 exemption. “Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or **no expansion** of existing or former use.” (14 Cal. Code Regs. § 15301, emphasis added.) The Project results in an expansion of the existing use through the addition of a second story. Therefore, aside from the fact that an exception to an exemption applies, the proposed Project is not within the scope of the Class 1 exemption because the exemption must be interpreted narrowly.

For the foregoing reasons, the Project is not exempt from environmental review. Importantly, this Project is located above Seacliff Beach State Park. As stated above, the Project will be highly visible from the State Park and should remain a single-story structure to avoid impacts to views the public experiences from Seacliff Beach. The County has not met its burden to demonstrate that any of the exemptions apply. Its failure to address environmental concerns is a violation of CEQA and thwarts the very purpose of the statute to “protect[] not only the environment but also informed self-government. *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 392.

For the foregoing reasons, we request that you deny approval of the Project. Thank you for your consideration.

Zoning Administrator
Re: 181 Seacliff Drive (Application #211129)
October 4, 2023
Page 4

Very truly yours,
WITTWER PARKIN

/s/

William P. Parkin

cc: Client