

Midcoast Community Council

P.O. Box 64

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July 23, 1998

Thomas F. Casey, III, County Counsel
Hall of Justice and Records - Third Floor
401 Marshall Street
Redwood City, CA 94063

Dear Mr. Casey,

Thank you for your letter of July 22, 1998, giving us legal counsel concerning the proposed advisory ballot issue for the Mirada Surf project. I read the letter at the Council meeting and the Council, using the Brown Act, voted unanimously to add the discussion of your letter to the agenda for its July 22 meeting as an "urgent matter received too late to be placed on the agenda." At its July 22, 1998 meeting, the Midcoast Community Council unanimously voted to reaffirm its request that the advisory ballot measure regarding the Mirada Surf project be placed on the November ballot for voters of the Midcoast, as originally requested. Our reason for this position is that, should this issue not be presented as a November advisory ballot issue, then the next time when such a ballot issue could economically be presented to the voters would be long after the EIR is completed, causing economic hardship on the developers to wait for a regularly scheduled election, or excessive cost for the County to host the ballot measure as a special election.

The developers have claimed that there is support for their project in the community. The Midcoast Community Council has been unable to locate or find significant support for this project. To the contrary, the project may have very little support except for the developers themselves. We feel that given the controversial nature of the required rezoning and change to the Local Coastal Plan that the project requires, it would be in the best interests of democracy if the voters had the opportunity to express their advisory voice before the Board of Supervisors hear the issue at a public meeting. We accept that our intent is advisory and not binding.

There are issues that might be raised by the voters if they are not given the opportunity to provide advice to the Board of Supervisors until after the issue is decided by the Board. These issues might have more serious repercussions than any that might be caused by a vote before the EIR. The question the Council is requesting to appear on the ballot is "Should a change to the Local Coastal Plan that permits rezoning of what is now designated parkland be permitted to allow the building of thirty-five residences?"

Should you have any problems or concerns with this request, please contact me.

Sincerely,



David Spiselman
Midcoast Community Council, Chair

c.c.: Supervisor Richard Gordon

Thomas F. Casey, III, County Counsel



LILLIAN LEE PORT
CHIEF DEPUTY COUNTY COUNSEL

COUNTY OF SAN MATEO

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July 22, 1998

David Spiselman, Chair
Midcoast Community Council
PO Box 64
Moss Beach, CA 94038

RE: Mirada Surf Ballot Measure

Dear Mr. Spiselman:

The request of the Midcoast Community Council for a ballot measure concerning the proposed Mirada Surf project has been referred to this office for review. Prior to presenting this matter to the Board of Supervisors it would be helpful if the Council could clarify certain issues.

As we understand the Council's request, it is your desire to have an advisory measure on the November ballot with voting being limited to the midcoast area. We would note that land use measures which are submitted to the electorate for a binding vote must be voted upon countywide. While it is possible to have advisory measures voted upon in areas less than the entire county, only a countywide measure can truly reflect the intent of the electorate.

Additionally, an advisory measure at this point in the process would seem to be premature and might raise legal challenges to the process. As the Council's aware, an environmental impact report has been ordered for this project. Following preparation of the report it will be necessary for the Planning Commission and the Board of Supervisors to hold noticed public hearings. To ask the voters for their opinion before the EIR is available and without the public hearing input might raise unnecessary legal issues.

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Therefore, it is requested that the Council review this matter and let us know if it indeed is your intent that the proposed election be only an advisory measure limited to the unincorporated area of the midcoast. We would also ask that you reflect on whether your intent could be accomplished in other ways such as polls or citizen petitions which would not add additional legal issues to this obviously contentious matter.

If you have any questions, please feel free to contact me.

Very truly yours,



THOMAS F. CASEY, III
COUNTY COUNSEL

TFCjh
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cc: Board of Supervisors
John Maltbie, County Manager
Paul Koenig, Director of Environmental Services