

pbscommissions - Case#: MHRB_2020-0001

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Date: 7/19/2020 3:00 PM
Subject: Case#: MHRB_2020-0001
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Mendocino Historic Review Board
Department of Planning and Building Services
County of Mendocino
120 West Fir Street
Fort Bragg, CA. 95437

RECEIVED
JUL 20 2020

Planning & Building Services

Re: Case#: MHRB_2020-0001

July 19, 2020

Chair Lamb, Board Members Kappler and Roth;

Note: Due to new information and lack of time to present it at the July 20, 2020 special meeting of the MHRB, I submit the remainder of my comments at this time. Please omit my telecomment request to present oral comment at the meeting.

The comments below reflect concerns I share regarding the solar development under consideration at 44855 Pine Street, Mendocino, by Robert and Carol Dominy, of Fort Bragg.

The Board may recall my previous public comment submitted of July 16, 2020, which began by discussing Secretary of the Interior Standards for Rehabilitation and Guideline recommendations, the 1992 Town Plan, Town regulations, California Coastal Act requirements, National Register of Historic Places criteria, and public health and safety concerns I share regarding the toxicity of solar collectors and the potential for degradation to local groundwater because of seismic, meteorological, climatic, and/or fire damage which would require special action by the volunteer fire department (solar panels and batteries contain toxic chemicals that may be released in a fire and dangerous if inhaled). The remainder of my comments continue where they left off, and largely address the applicant's new plans for solar development in the backyard.

7. The new plan was posted and made available to the public by PBS staff late Friday, July 17.

While I am encouraged to find that the applicants have rightfully acknowledged their obligation to neighbor Garnish Daly and have withdrawn their plans for rooftop solar panels adjacent his home and garden, it should be noted that this action does not qualify as mitigation as their agent is suggesting. Rather, it is recognition of a prior agreement and is binding. Nor is removal of the

rooftop panels a "mitigation to all of the neighbors concerns", in light that public comment has been submitted about this project from throughout the community. Regardless, I'm grateful in knowing all of Mendocino - and its visitors - will benefit from the removal of a rooftop system from Mendocino's uniquely beautiful viewshed.

8. Dimensions for the remaining solar panels are once again absent in the staff report despite two previous requests that the plans be returned to the agent and resubmitted to PBS with the specific dimensions. I am requesting again that this critical information be submitted, to include panel height(s), since ground-mounted solar arrays which appear to be stacked as closely as they are can be very tall; one quick internet search reports heights of 5-6 feet or 60-72 inches. (Ground Mounted Solar Power Systems - Palomar Solar; www.palomarsolar.com).

For a third time, I am also requesting a complete and legible southern elevation rendering which will depict the applicant's plans, to include all modifications to the property, whether current and/or proposed, i.e., new water tank, proposed animal cage, proposed ground-mounted solar panels and brick patio in front, etc. in order that the public, including the Mendocino-Little River Cemetery District, can know what is expected and the Board is able to make a more informed decision.

If staff has not or will not be requiring this information from the applicants, please reply with the reason(s) why.

As the cemetery district did not receive a March notification of this project, can staff confirm that as a contiguous property, the Mendocino-Little River Cemetery District has been properly noticed?

Note: The landscaping and maintenance work in Evergreen Cemetery is apparently, not yet completed. In a recent conversation, the crew informed me that vegetation would be trimmed along all perimeter fencing. If my understanding is correct (and it may not be, due to language barriers), then the public view into the applicant's backyard has the potential to be substantially altered and opened.

9. As I referenced last March 2, 2020, state law limits local government restrictions on solar installations. It is critical, however, that the Board recognize that the opinion offered by County Counsel and PBS in 2012, 2014, and most recently in 2020, is simply that: legal opinion. Others can be had. Expert opinion can be found. In fact, the Energy Policy Initiative Center (EPIC) of the University of San Diego School of Law has reviewed the statutes and relevant cases of California's Solar Rights Act, and what they have to say challenges County opinion on several points:

~ AB2188 amended California's Solar Rights Act Section 65850.5 and Section 714 of the Civil Code in 2014, expressly applying the Act to "small residential rooftop solar systems" under 10 kilowatts. It does not include other types of solar energy systems. The Dominy's intentions for ground-mounted arrays do not meet the Act's definition of a solar energy system. These remain completely ambiguous and are not protected by its permitting process;

~ Government Code Section 65850.5(a) expresses the state's intent to promote and encourage solar energy systems and although codified, the legislative language does not expressly prohibit any actions by local governments; rather, it only discourages certain actions, so it remains undetermined as to how a court might enforce this section of the law;

~ This same subsection also seeks to prevent local jurisdictions from restricting solar installations based solely on discretionary factors, but stops short of prohibiting such restrictions, so it also remains undetermined as to how a court might enforce this section of the law.

The Sea Ranch, in Sonoma County, is likely to be aware of the amendment's implications and has planned accordingly. Inquiry into the Department of Design, Compliance, and Environmental Management confirms that while rooftop solar panels are preferred, ground-mounted solar arrays are definitely - not. In fact, in the 16.2 square miles that The Sea Ranch encompasses, only two or "perhaps three" have been installed. All are completely screened, well hidden, and cannot be visible from any window.

Many counties have also recognized this need and have developed ordinances to better regulate ground-mounted solar systems.

10. With regard to environmental review, even if a portion of a project is ministerial, if there are discretionary approvals required, the whole of this project must be analyzed under CEQA prior to proceeding with any portion of the project.

11. As my recommendation prior to Friday's developments - that the Board permit the rooftop panel afforded to the applicants by law and deny the ground-mounted array, which is not - is no longer applicable, I urge the Board instead to:

~ appeal to the applicants for their sensitivity in abandoning their plans for the Historic District's first ground-mounted solar array;

~ if unsuccessful, deny the ground-mounted panels under consideration;

~ approve the development of new ordinance(s) to better regulate ground-mounted solar systems;

~ plan for mandatory recycling of solar equipment; and,

~ investigate the concept of a local community and/or county solar cooperative ("farm"), capable of accepting capital and providing credit and tax benefits, in a suitable, sensitive site whereby the resource is shared and no party and/or property is unduly impacted. There are plenty of marginalized locations where adverse impacts can be far lessened, the most promising of which are existing commercial, institutional, and industrial carports and rooftops where impacts to land, water, wildlife, agricultural, natural, and/or historic resources can be minimized and conflict avoided.

Your decision is not so much about Mendocino's past, but Mendocino's future. This is not a nimby issue, it is community-wide and very much precedence-setting.

Please place these comments into the administrative record.

Thank you again,

Christina Aranguren
Mendocino