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Farber | Schreck**

*A Strategic
California Merger
with Hatch & Parent*

November 25, 2009

VIA HAND DELIVERY

Santa Barbara County Board of Supervisors
c/o Clerk of the Board
105 East Anapamu Street
Santa Barbara, CA 93101

Christopher A. Jacobs
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805.965.4333 fax
cjacobs@bhfs.com

RE: *Supplemental Letter – Comments on Board Letter prepared for December 1, 2009 Hearing*
Relating to Appeal of the County Planning Commission's Decision to Deny a Coastal
Development Permit for Bean Blossom Lot X Proposed Single-Family Residence
Appeal Nos. 08APL-00000-00031; 08APL-00000-00032
Permit Nos. 02CDP-00000-00023; 03BAR-00000-00164
APN 081-210-047 (14000 Calle Real, Gaviota)

Dear Honorable Supervisors:

Brownstein Hyatt Farber Schreck, LLP represents Bean Blossom, LLC (Owner), appellant and owner of the above-referenced Property. We provided a letter to your Board dated November 20, 2009 explaining the permit application history and facilitation success that resulted in what we described as the "Consensus Project," and requested that it be considered as an alternative to the project on appeal by Owner. It was not our intention to provide a supplemental letter responding to Staff's Board Letter, however, after reviewing its contents, we have found it necessary to respond to the following items:

A. Floor Area Calculations (Gross v. Net)

The Board Letter provides only the *gross floor area measurement* for the Consensus Project, which includes all areas covered by roof (including the eaves), basements, accessory structures and other areas as specified in Article II Sec. 35-58. (The definition of gross floor area includes open or roofed porches, balconies, porticos, arcades, plazas, courts, walkways and breezeways.) Often times the gross floor area measurement is confusing and *causes the building size to be overstated* in terms of how building size is typically measured/stated by the County Assessor, architects and/or real estate appraisers who refer to and work with net floor area calculations or a gross area calculated by measuring around the perimeter of a building's foundation (neither of which include eaves, verandas, covered porches, patios, etc.). Garages, basements and accessory structures are typically not included in the calculation of relative building size when considered by the Architectural Boards of Review. The County's practice has changed recently, and some relevant comparative projects, including Lot H, were characterized at the time of approval by their net area rather than the gross area. Evaluating the Consensus Project from a net floor area perspective, in addition to a gross floor area perspective, helps to provide a better representation of the actual house size proposed. In *net floor area measurement*, the Consensus Project consists of an approximately 8,680 square foot single family residence with a 4,389 square foot basement and below grade garage, and an approximately 800 square foot guest house. Please see the following table for a calculation of both gross and net floor area for the proposed Consensus Project.

Consensus Project Floor Area (Square Feet)

	Gross	Net
Main Residence		
<i>First Floor</i>	9,320	8,680
<i>Garage/Basement</i>	4,776	4,389
<i>Roofed Verandas</i>	2,234	N/A
<i>Total</i>	16,330	13,069
Guest House		
<i>Interior</i>	924	800
<i>Roofed Porches</i>	415	N/A
<i>Total</i>	1,339	800
Total	17,669	13,869

B. Facilitation Process

On Page 3 of the Board Letter, Staff states that following the County facilitation process on November 21, 2008, "Staff suggested that the applicant apply for a separate Coastal Development Permit to enable the modified project to undergo the full development review process. The applicant declined to apply for separate permit." It is important that we clarify this statement. While withdrawal and resubmittal of the application was discussed during and following the facilitation meeting, other options to move the Consensus Project forward were discussed as well, including Staff review of the Consensus Project and recommendation for review and direction from your Board. Following the facilitation meeting, the Consensus Project plans were submitted to Mr. Allen Bell for his review. Owner and Project team continued to work with Mr. Bell and Staff for the next several months to achieve a revised plan addressing Fire Department requirements and to obtain clearances from Environmental Health Services for both water and septic services. Owner requested on several occasions that the Consensus Project be scheduled for advisory review by the Central Board of Architectural Review (CBAR). Our objective was to provide your Board with the most complete project plans and project description as possible. This, however, never happened. At some point along this route, Staff advised it was not comfortable evaluating the Consensus Project (or having the CBAR do so) until receiving direction from your Board. One must question the value of including facilitation in the administrative review process if the facilitation results are not meaningfully integrated into the process of reviewing a revised project on appeal. Since your Board's review of the appeal is *de novo*, you may give direction or even grant approval of a revised project, such as the product of the facilitation process, (as occurred with Lot H). We request that your Board consider the Consensus Project, a product of the facilitation process that included close coordination with Gaviota Coast Conservancy, and give direction to staff to complete a review of this revised project. We think it unnecessary to penalize Owner for expressing flexibility in the facilitation process by requiring Owner to begin the review process from square one.

C. Comparison to Other Projects on the Gaviota Coast

On Page 3 of the Board Letter, a comparison of the Consensus Project to other proposed or approved projects on the Gaviota Coast is made. Unfortunately staff did not provide as an attachment the list of these eight projects, and the associated data collected, that are referenced in the Board Letter. Working from the online resource "Gaviota Coast Projects" cumulative project list dated July 2009, we found the following which we expect are at least some of the project staff used in their analysis:

Project	Date Approved	Property Size (acres)	Square Footage for Main Residence	Gross or Net	Percent of Parcel Coverage
Bean Blossom Lot H	July 2006	106	13,844 (includes garage)	Gross	0.003
Hart SFD	April 2005	24	4,885 (includes garage)	Net	0.005
Larralde SFD	August 2007	22	2,914	Net	0.003
Simon SFD	February 2009	47	4,448 (includes garage)	Gross	0.002
Stoltman SFD	November 2006	10	5,598 (includes garage)	Gross	0.013
<i>Consensus Project</i>	<i>In Process</i>	287	16,330 (includes garage)	Gross	0.001

According to the July 2009 document, there have been five single family residence projects approved on the Gaviota Coast since 2005. While the Consensus Project is larger than other homes on the list, it is important to notice that the property size for the Consensus Project is also considerably larger – 287 acres compared to the smallest lot size of 10 acres. All of the projects, in context, represent development of less than 1% of their respective properties, and the Consensus Project residence represents the smallest percentage of overall property. When the entire area of the Consensus Project is considered (approximately two acre development area) this still represents only 1% of the entire property, and a two acre development envelope is consistent with the Uniform Rules for Williamson Act Agricultural Preserves. (As stated in our previous letter, the development envelope was approved by the Agricultural Preserve Advisory Committee on May 9, 2008). When viewed in context, the Project is not out of scale with the approved Bean Blossom Lot H project or other projects approved on the Gaviota Coast.

A grading comparison is also described in the Board Letter, however no grading information for the mentioned eight projects is provided in the Board Letter, and no grading information is represented in the July 2009 Gaviota project document. Since the data was not provided by Staff, we cannot comment on the comparison provided, except with respect to Note 2 on the bottom of Page 3. Staff reports: "The modified project would require approximately 28,900 cubic yard of cut and fill, and would require significantly more grading than seven of eight other recently approved and pending residential projects on the Gaviota Coast. The grading for these seven projects ranges from approximately 500 to 17,000 cubic yards of cut and fill. The eighth project, Bean Blossom Lot H (approved July 11, 2006) required approximately 27,400 cubic yards of cut and fill." The clarification needs to be made that Bean Blossom Lot H is also an approved project – a project approved by your Board in 2006. So when stating the range of grading calculations that have been approved on the Gaviota Coast, it should instead be stating the range between 500 and 27,400 cubic yards, not 17,000 cubic yards, to incorporate the Bean Blossom Lot H approval. From this perspective, while Bean Blossom Lot H may be on the higher side in terms of grading that has been approved, it was approved by the County, and the Consensus Project is not proposing significantly more grading than this approved project.

D. Central Board of Architectural Review

The last hearing with the CBAR was held on September 12, 2008. At this hearing, P&D Staff's recommendation was for denial based primarily on grading and terrain alternation policies relating to development on hillsides in the Coastal Zone, as indicated in their Staff Report to the County Planning Commission. The CBAR, however, provided favorable comments in support of the Project and expressly stated their disagreement with the policy determinations made by P&D Staff. (See Attachment A: CBAR Minutes, September 12, 2008) The CBAR wanted to continue the Project which may have provided the Owner with an approval at a subsequent meeting, but upon request of the

Owner, a majority¹ voted in favor of denial based on lack of information (a revised landscape plan with minor revisions to the auto court and lawn/pool area) and not due to a dislike or disapproval of the design of the Project itself. The CBAR had no issues relating to the proposed size, scale and architectural design of the Project. The CBAR also had no objection to the basement element of the Project improvements. These supportive comments built upon the CBAR's earlier direction provided at the hearing of June 20, 2008 when the CBAR members indicated that it was not necessary or appropriate to burrow the Project into the ground and that visibility of portions of the roof and upper wall components would be acceptable. (See Attachment B: CBAR Minutes, June 20, 2008)

E. Competing Policies – Minimization of Grading & Protection of Visual Resources

It is our opinion that the Consensus Project grading is appropriate for the property and the overall goal of protecting visual resources on the Gaviota Coast. Importantly, the earth movement that P&D terms as "excessive grading" is driven by the desire to preserve visual resources and not by the house size and/or design. A similarly sized home could be constructed on the Property with significantly less grading if not sited so as to be 100% invisible from public viewing places per strict application of the County and Coastal visual policies to make the house invisible. The CBAR agreed that there should be a balance between visibility and grading policies as summarized above and stated in the June 20, 2008 and September 12, 2008 CBAR minutes (Attachments A and B), and that the project should not have to be constructed within burrow pit to achieve consistency with County visual policies. We worked hard to refine the Consensus Project to ensure there would be no visibility of the Consensus Project's structures from Highway 101 or recognized public viewing places, not just that the structures would not intrude into the skyline. This objective increased the amount of grading. As with all land use decisions, competing policies must be balanced, and on the Gaviota Coast, all developments have striven to avoid any structural visibility if possible.

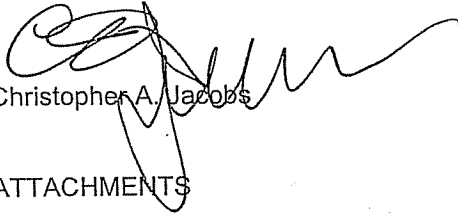
Further, we feel there is some sentiment that house size is driving the grading quantities. There is no question that house size and grading are related, however, the correlation between house size and grading quantities is not one of linear progression. For example, if the gross floor area of the Consensus Project were reduced by 50% it might reduce the grading quantities by 10%, but certainly not 50%. Grading must be considered in relation to the overall size and design of the structures and the natural terrain. Here, the site grading being proposed is designed and intended to eliminate visual impacts. If the grading was reduced and the Project "stepped up" the hillside, it would be in clear view from relevant public view areas.

¹ One CBAR member, Kris Miller Fisher, was very frustrated with the situation, thought the Project was very close to being approvable and did not want to vote for denial. She ultimately abstained.

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We hope this clarifies some comments and items presented by Staff in the Board Letter. We thank you in advance for your time and consideration of this matter, and we are happy to respond to any further questions you may have at the December 1st hearing.

Sincerely,



Christopher A. Jacobs

ATTACHMENTS

Attachment A	CBAR Minutes, September 12, 2008
Attachment B	CBAR Minutes, June 20, 2008

Cc: David P. Trezise, Esq.
John Vallance
Mark Lloyd
Jock Sewall
Grant Castleberg
Marc Chytilo, Esq.
Mike Lunsford

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The following information is for your information only. It is not intended to be used as a basis for any decision. The information is provided for your information only.

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COUNTY OF SANTA BARBARA



**CENTRAL
BOARD OF ARCHITECTURAL REVIEW
APPROVED MINUTES
Meeting Date: September 12, 2008**

Solvang Municipal Court
1745 Mission Drive, Suite C
Solvang, CA 93463
(805) 934-6250

Bethany Clough, Chair
C. Puck Erickson-Lohnas Vice-Chair
Kris Miller Fisher,
Evans Jones
Robin Brady

Erich Brown, Alternate
Lowell Lash, Alternate
Gary Kaiser, Supervising Planner
Leticia I. Rodriguez, CBAR Secretary

The regular meeting of the Santa Barbara County Central Board of Architectural Review was called to order by the Chair Erickson-Lohnas, at 9:05A.M., in the Solvang Municipal Court, 1745 Mission Drive, Suite C, Solvang, California.

BOARD MEMBERS PRESENT:

C. Puck Erickson-Lohnas - Vice Chair
Kris Miller Fisher
Evans Jones
Robin Brady

STAFF MEMBERS PRESENT:

Leticia I. Rodriguez - Board Assistant
Gary Kaiser - Supervising Planner, Development Review North
Allen Bell - Planner, Development Review South
Tammy Weber - Planner, Development Review North

BOARD MEMBERS ABSENT:

Bethany Clough - Chair
Erich Brown
Lowell Lash

REPORTERS: None in attendance.

NUMBER OF INTERESTED PERSONS: Approximately 2

ADMINISTRATIVE AGENDA:

I. PUBLIC COMMENTS: None.

II. AGENDA STATUS REPORT: No changes were made to the agenda.

III. MINUTES: Jones moved, seconded by Miller-Fisher and carried by a vote of 3 to 0 (Erickson-Lohnas abstained) (Clough, Brown, and Lash absent) to approve the Minutes of August 22, 2008, as revised.

The minutes of June 17, 2008 will be continued to the CBAR meeting of October 03, 2008, no motion was made.

IV. CBAR MEMBERS INFORMATIONAL BRIEFINGS: None.

V. STAFF UPDATE: None.

VI. STANDARD AGENDA:

1. 03BAR-00000-00164 Bean Blossom Lot X Single-Family Residence, Gaviota
Garage and Guest House
02CDP-00000-00023 (Allen Bell, Planner) Jurisdiction: Ridgeline: Rural

Request of Christopher Jacobs, agent for the owner, Bean Blossom LLC, to consider Case No. 03BAR-00000-00164 for preliminary approval of a single-family residence of approximately 17,605 square feet (includes basement and underground garage of approximately 4,895 square feet), guest house of approximately 1,339 square feet and accessory structures including a pool, motor court and driveway of approximately 4,200 linear feet. (Statistics are gross floor area.) No structures currently exist on the parcel. The proposed project would require approximately 30,000 cubic yards of cut and approximately 26,000 cubic yards of fill. The property is a 287.36 acre parcel zoned AG-II-320 and shown as Assessor's Parcel Number 081-210-047, located at 14000 Calle Real, in the Gaviota Area, Third Supervisorial District. (Continued from 2/13/04, 8/13/04 2/16/07, 3/9/07, 08/03/07, 02/15/08, 06/20/08, and 08/22/08)

PUBLIC COMMENT:

- Ed Easton – Spoke on behalf of the Gaviota Coast Conservancy.
- Mike Lundsford – Spoke on behalf of the Gaviota Coast Conservancy.

CBAR COMMENTS:

- 3 foot retaining wall in rear yard (ocean facing elevation) could be reduced or broken-up and landscaped to minimize visual impacts.
- CBAR notes that grading plan includes no 1.5:1 slopes. Most slopes are at 2.5:1 or 3:1.
- Building is in scale with this expansive site.
- While much of the grading is required to meet fire department access requirements, grading should be reduced by reducing large flat yard areas.
- Reverse berm concept to preclude protruding into skyline is appropriate.
- Grading figures are exaggerated because of basement, which really should not be counted in terms of visual impacts.
- House is beautifully designed architecturally.
- Reducing relative flat yard in the pool area would also reduce grading.
- Project is not ready for preliminary approval in terms of site planning around the house (suggesting that motorcourt and rear yard areas could be more compact) but the siting, size, height and scale of the structures are appropriate and are approvable.
- Landscaping needs to be more developed.
- Applicant requested denial in order to minimize the number of appeals, even though a majority of the board was satisfied with the architecture (including bulk and scale) with remaining concerns focused on the grading.

ACTION: Jones moved, seconded by Brady, and carried by a vote of 3-0-1 (Clough, Brown and Lash absent)(Miller-Fisher abstained) to deny preliminary approval of 03BAR-00000-00164.

2. 08BAR-00000-00200 Seretan Single Family Dwelling Addition Santa Ynez
08LUP-00000-00500 (Tammy Weber, Planner) Jurisdiction: Ridgeline-Rural

CENTRAL BOARD OF ARCHITECTURAL REVIEW COMMITTEE APPROVED MINUTES
 Meeting of June 20, 2008
 Page 2

08BAR-00000-00132 Capone New Residence, Garage, Guest House, and Artist Studio Santa Ynez
 (No Planner Assigned) Jurisdiction: Ridgeline- Rural

Request of Sid Goldstein, agent for the owners, Peter Capone, to consider Case No. 08BAR-00000-00132 for conceptual review of a new residence of approximately 6,395 square feet, an attached garage of approximately 905 square feet, a guest house of approximately 800 square feet, and a artist studio of approximately 608 square feet. No structures currently exist on the parcel. The proposed project will require approximately 791 cubic yards of cut and approximately 973 cubic yards of fill. The property is a 108.2 acre parcel zoned AG-II-100 and shown as Assessor's Parcel Number 141-250-018, located in the Santa Ynez area, Third Supervisorial District.

III. **MINUTES:** Erickson-Lohnas moved, seconded by Clough and carried by a vote of 4 to 0 (Brady, Brown, and Lash absent) to approve the Minutes of May 30, 2008, as revised.

IV. **CBAR MEMBERS INFORMATIONAL BRIEFINGS:**

Bethany Clough informed that Commissioner Cecilia Brown attended the June 17, 2008 Special CBAR meeting and requested CBAR minutes be provided to the Planning Commission as an attachment to the staff report and not incorporated as part of the planner's notes.

V. **STAFF UPDATE:** None.

VI. **STANDARD AGENDA:**

1. 03BAR-00000-00164 Bean Blossom Lot X Single-Family Residence, Gaviota
02CDP-00000-00023 (Allen Bell, Planner) Garage and Guest House Jurisdiction: Ridgeline: Rural

Request of Christopher Jacobs, agent for the owner, Bean Blossom LLC, to consider Case No. 03BAR-00000-00164 for a site visit for a single-family residence of approximately 16,431 square feet (includes basement of approximately 3,721 square feet), detached garage of approximately 1,174 square feet, guest house of approximately 1,339 square feet and accessory structures including a pool and driveway of approximately 4,200 linear feet. No structures currently exist on the parcel. (Statistics are gross floor area.) The proposed project would require approximately 50,000 cubic yards of cut and approximately 42,500 cubic yards of fill. The property is a 287.36 acre parcel zoned AG-II-320, and shown as Assessor's Parcel Number 081-210-047. The project site does not have an address and is known as Bean Blossom Lot X in the Gaviota area, Third Supervisorial District. (Continued from 2/13/04, 8/13/04 2/16/07, 3/9/07, 08/03/07, and 02/15/08)

Site visit only. No action taken.

2. 03BAR-00000-00164 Bean Blossom Lot X Single-Family Residence, Gaviota
02CDP-00000-00023 (Allen Bell, Planner) Garage and Guest House Jurisdiction: Ridgeline: Rural

Request of Christopher Jacobs, agent for the owner, Bean Blossom LLC, to consider Case No. 03BAR-00000-00164 for preliminary approval of a single-family residence of approximately 16,431 square feet (includes basement of approximately 3,721 square feet), detached garage of approximately 1,174 square feet, guest house of approximately 1,339 square feet and accessory structures including a pool and driveway of approximately 4,200 linear feet. No structures currently exist on the parcel. (Statistics are gross floor area.) The proposed project would require approximately 50,000 cubic yards of cut and approximately 42,500 cubic yards of fill. The property is a 287.36 acre parcel zoned AG-II-320, and shown as Assessor's Parcel Number 081-210-047. The project site does not have an address and is known

as Bean Blossom Lot X in the Gaviota area, Third Supervisorial District. (Continued from 2/13/04, 8/13/04 2/16/07, 3/9/07, 08/03/07, and 02/15/08)

- The case planner, Allen Bell, summarized the Planner Memo and concerns about what the staff considers to be excessive grading. The staff would also like to track the LUP and BAR cases concurrently, if indeed they will both go the Planning Commission on Appeal.
- Applicant Presentation

PUBLIC COMMENT:

- Ed Easton – Spoke on behalf of the Gaviota Coast Conservancy.

CBAR COMMENTS:

- The residence does not need to be totally hidden, especially the roof which is earth toned adobe tiles that would blend and be subordinate to the natural terrain.
- The floor elevation could be raised as long as wall openings and associated interior lighting, would not be visible. This would decrease grading significantly and increase the project's consistency with the county's hillside grading policies.
- Return for preliminary review after working with Planning and Development staff and the Gaviota Coast Conservancy to arrive at an acceptable compromise in terms of the finish floor elevation and corresponding grading qualities and visibility.

Project received further conceptual review only. Brady, Brown, Lash absent. No action taken. Applicant may submit for preliminary approval.

3. 08BAR-00000-00113 Agua Azul New Single Family Dwelling/Guesthouse Gaviota
08CDH-00000-00018 (Seth Shank, Planner) Jurisdiction: Ridgeline- Rural

Request of Bill Swanson, agent for the owners, Agua Azul Partnership, to consider Case No. 08BAR-00000-00113 for conceptual review of a single-family residence of approximately 2,739 square feet with an attached garage of approximately 770 square feet, a guesthouse of approximately 798 square feet with an attached garage of approximately 340 square feet and workshop of approximately 240 square feet. The following structure currently exists on the parcel: a shed of approximately 120 square feet. The proposed project will require approximately 680 cubic yards of cut and fill. The property is a 117.9 acre parcel zoned AG-II-320 and shown as Assessor's Parcel Number 083-680-030, located at Lot 80, Hollister Ranch II, Agua Road in the Gaviota area, Third Supervisorial District.

ACTION: Clough moved, seconded by Jones, and carried by a vote of 3 to 0 (Miller-Fisher, Brady, Brown, and Lash absent) to continue 08BAR-00000-00113 to the CBAR meeting of July 11, 2008. (See agenda status report.)

4. 08BAR-00000-00076 Enright Farm Employee Dwelling Santa Ynez
08CUP-00000-00022 (Dana Carmichael, Planner) Jurisdiction: Ridgeline- Rural

Request of Mosaic Land Planning, agent for the owners, Lee and Nancy Enright, to consider Case No. 08BAR-00000-00076 for further conceptual review and preliminary/final approval of a new farm employee dwelling of approximately 960 square feet. The following structures currently exist on the parcel: a residence of approximately 4,473 square feet and a barn of approximately 4,536 square feet. The proposed project will require approximately 20 cubic yards of cut and fill. The property is a 117.48 acre parcel zoned AG II-100 and shown as Assessor's Parcel Number 141-240-028, located at 5125 Happy Canyon Road in the Santa Ynez area, Third Supervisorial District. (Continued from 05/09/08)