

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Prepared on: 6/06/06
Department Name: Planning & Development
Department No.: 053
Agenda Date: 6/20/06
Placement: Departmental
Estimate Time: 1 hour
Continued Item: Yes, from April 18, 2006
If Yes, date from:
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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development

STAFF CONTACT: Steve Chase, Deputy Director (x 2520)

SUBJECT: Hearing for the Gelber, Flum, Adizes and Grassini Appeals of the Montecito Planning Commission Approvals of the Klink Addition to an existing single-family dwelling and to the Klink New Single-Family Dwelling.

Recommendation:

That the Board of Supervisors deny the appeal of the Montecito Planning Commission approvals of the Klink SFD Addition and Klink New SFD under case numbers 04CDH-00000-00039 and 04CDH-00000-00042, [Appeal Case No. 05APL-00000-00030].

The Board of Supervisors' action should include the following:

1. Adopt the required findings for approval of the projects specified in the Montecito Planning Commission Action Letters dated October 21, 2005 and December 8, 2005, including CEQA findings;
2. Accept the exemptions pursuant to CEQA Guidelines Sections 15301(e) and 15303(a), included as Attachments B of the Montecito Planning Commission staff report dated October 7, 2005; and
3. Adopt the required findings for approval of Lot Line Adjustment 06LLA-00000-00007 under the provisions of County Code Chapter 21, to adjust lines between two parcels of 32,087 gross square feet and 14,154 gross square feet to create two parcels of 32,087 gross square feet and 14,154 gross square feet in the 1-E-1 Zone District under Article II, included as Attachment A of the Montecito Planning Commission Action Letter dated May 22, 2006; and

4. Adopt the required findings for approval of Modification 06MOD-00000-00008 from the side yard setback regulations under the provisions of the 1-E-1 Zone District under Article II to allow a minimum three foot setback instead of the required five feet, included as Attachment A of the Montecito Planning Commission Action Letter dated May 22, 2006; and
5. Accept the Exemption pursuant to Section 15305 of the State Guidelines for Implementation of the California Environmental Quality Act; and
6. Deny the appeal and grant de novo approval of the project subject to the conditions of approval included in the Montecito Planning Commission Action Letters dated October 21, 2005, December 8, 2005 and May 22, 2006.

Refer back to staff if the Board takes other than the recommended action for appropriate findings and conditions.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

Background

Prior to the Board of Supervisors (BOS) appeal hearing scheduled for April 18, 2006, two facilitation meetings led by Alan Seltzer, then of County Counsel, were held in order to attempt to resolve the appellants' issues. After the second meeting, a Memorandum of Agreement was executed by the applicants' and the appellants' legal counsels. It was agreed that if the Klinks could apply for and receive Lot Line Adjustment (LLA) and Modification (MOD) approvals that would allow the entire footprint of the proposed home to be shifted 4 feet further to the west on site, thereby providing the 9 foot side yard setback typical to the immediate neighborhood, and subject to certain other conditions as specified in the memorandum, the appellants would no longer oppose the project. The BOS was informed of this negotiated settlement on April 18th, 2006, and the appeal was continued to June 20, 2006, with direction to P&D staff to process the LLA and MOD applications, and to obtain the Montecito Planning Commission's recommendations on the applications prior to the BOS' continued hearing on the appeal.

The Memorandum of Agreement that was generated out of the facilitation meetings also described a mutual agreement regarding the placement and design of the gates and driveways for the existing residence and the proposed new Klink residence to be specified in revised project conditions. Additional specific design concerns were to be more comprehensively addressed in a later draft agreement, to be discussed by both parties at the Board of Supervisors hearing.

At the Montecito Planning Commission hearing of May 17, 2006, the Commission voted 3-1 to recommend to the Board of Supervisors that they approve the Lot Line Adjustment (LLA) and Modification (MOD) requests. One of the findings requires the Montecito Board of Architectural Review (MBAR) to concur that the Modification is minor in nature and would result in better site or architectural design. At their meeting on May 8, 2006, the MBAR made

their finding in support of the Modification request. The project will receive further conceptual design comments from the MBAR on June 19, 2006.

Issue Summary

Many of the appellants' objections were driven by the placement of the proposed home on the Klink site: because of the long and narrow dimensions of the smaller parcel, with an average width of approximately 30-33 feet, the proposed home would be built right up to the required 5-foot side yard setbacks and would be approximately 14 feet from the easterly neighbors' (the Gelbers) residence. According to the appellants, the second floor of the proposed Klink SFD would impact the Gelbers' light and views, and the structural footprint and driveway would be potentially damaging to a specimen magnolia tree in the northeast corner of the parcel. Further, the neighbors expressed a desire for a site design that would work with the existing development on the larger of the Klink parcels to create more of an overall "compound" feel that would be compatible with neighboring estates.

If the proposed LLA were approved, the size of each non-conforming parcel would remain the same, and the minor re-configuration of the line between the two Klink parcels would meet all Chapter 21-93.3a criteria for Lot Line Adjustment approval. The proposed LLA would move the western property line of the smaller parcel (APN 007-380-026) several feet further west in the vicinity of the proposed new SFD. In conjunction with the Modification request, the LLA would then allow the footprint of the proposed new house to be moved away from the easterly neighbor's house.

A minor modification to the required side yard setback can be approved in the interest of better site design, practical difficulties and resource protection, among the reasons cited under Article II, Section 35-179.1. Per Section 35-179.2.3(b)(2), a side setback modification of up to 3 feet from the property line can be granted, which is why the request is for a 2-foot modification of the 5-foot setback. All the required findings for approval of Modification 06MOD-00000-00008, specified under Section 35-179.6 (see Attachment A) can be made.

With LLA and MOD approvals, a more satisfactory overall site design would be achieved, the driveway and the house footprint would be located further away from the magnolia tree of concern, and the issues that triggered the appeal of the project would be resolved in a manner that would be satisfactory to all parties.

Driveway Access

Two separate driveways in close proximity on the Klink property raised safety and aesthetic concerns for the neighbors. Aesthetically, the appellants' stated concern is that the pedestrian experience from Fernald Point Lane will be negatively affected by another paved entry in place of the existing wall and landscaping. Another stated concern is the potential impact that new driveway hardscape would have on a large magnolia tree in the northeast corner of the lot close to Fernald Point Lane and to the easterly neighbor (see discussion below).

A one-access plan was discussed during MPC and MBAR review, but the Klinks strongly prefer a site design with two separate driveways from Fernald Point Lane. Given that preference, the MBAR offered direction on creating the best possible two-driveway design, with specific guidance on wall and landscaping areas between the driveways and along Fernald Point Lane. The MPC approval of the project on November 16, 2005 included a condition that would require a landscape easement on the west (larger) Klink lot to allow for landscaping that would improve the appearance of the two-driveway area.

Pursuant to the Memorandum of Agreement that arose from the facilitation process, it was agreed that the existing wrought iron gate to the existing Klink residence would be replaced with more historically compatible wooden gates, and that gates to the proposed new residence driveway would match, would be 4 feet further west than on earlier plans, and would thus give the appearance from Fernald Point Lane of being one estate with a primary and secondary entrance. It was further agreed that the mechanisms that operate the gate on Fernald Point Lane just west of the Klink property would be coordinated with the new driveway gate mechanisms to minimize the possibility of cars waiting in Fernald Point Lane.

Project Impacts to Trees

The appellants are concerned about potential impacts to a large (approximately 45-50 feet in height) specimen magnolia tree in the northeast corner of the parcel which is visible from Fernald Point Lane.

Without the proposed LLA and MOD, the proposed new driveway would encroach within 4-5 feet of the trunk of this tree, and the footprint of the garage portion of the proposed new residence would also encroach into the root zone of the tree.

The applicant provided an arborist's report (dated January 10, 2006) to P&D and the easterly neighbor, Robert Gelber, also commissioned an arborist's report (dated December 16, 2005) from another County-approved arborist. Both reports conclude that the root system of the magnolia tree in question could be impacted by the proposed driveway and residence, and offer recommendations on how to minimize those impacts. There is no assurance that the tree would either survive or not survive the driveway and house excavation, but under the proposed design revisions to the project if an LLA and MOD were approved, both the new driveway and the new home footprint would be further away from the roots of the magnolia.

It was also agreed that further details of the proposed basement level of the proposed new home, to include 2-car parking and storage areas, would be made available for further review by the BOS and by the MBAR.

Mandates and Service Levels:

Section 35-182.3.1 of Article II (the Coastal Zoning Ordinance) of Chapter 35 of the County Code provides that the decisions of the Planning Commission may be appealed to the Board of Supervisors.

Fiscal and Facilities Impacts:

The costs for processing appeals of land use projects are typically provided through a fixed fee and funds in P&D's adopted budget. No fees are collected for appeals in the appeals jurisdiction of the Coastal Zone. Planning and Development offsets all costs associated with processing of the appeal, budgeted in Development Review South Division, in the Permitting and Compliance Program on page D-294 of Planning and Development's 2005-2006 fiscal year budget.

Special Instructions:

Clerk of the Board shall forward a copy of the Minute Order to Planning and Development Hearing Support Section, Attention Cintia Mendoza.

Concurrence: None

Prepared By: Anne Almy, Supervising Planner

Attachments:

- A. Klink Lot Line Adjustment and Modification Staff Report dated May 5, 2006
- B. Klink Lot Line Adjustment and Modification Action Letter dated May 22, 2006