

**MONTECITO PLANNING COMMISSION DECISION
 APPEALED TO THE BOARD OF SUPERVISORS
 April 28, 2014**

Case Number	Title: Appeal of Kasztelan Denial of Single Family Dwelling		
APN: 013-166-009	Applicant:	Jarrett Gorin (Agent for applicant/appellant)	
	Appealed by:	Brian and Jessica Kasztelan	
	Date appealed:	April 28, 2014; 3:55 P.M.	
Area: Montecito	Planner:	J. Ritterbeck, ext. 3509	
District: First	Supervising Planner:	Anne Almy, ext. 2053	
	Planning Commission		Board of Supervisors
Hearing Dates:	April 16, 2014	Denied the project	
Fee Paid:			\$648.26
APPELLANTS REASON FOR APPEAL: N/A			
FACILITATION: N/A			
OUTCOME OF BOS HEARING:			

- cc: Glenn Russell, Director
 Dianne M. Black, Assistant Director
 Alice McCurdy, Deputy Director
 Anne Almy, Supervising Planner
 J. Ritterbeck, Planner
 Records Management
 Elisa Moser, Accounting
 Petra Leyva, Building & Safety
 David Villalobos, Hearing Support



Appeal to the Board of Supervisors or Planning Commission (County or Montecito)

APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL) on the issuance, revocation, or modification of :

- All Discretionary projects heard by one of the Planning Commissions
- Board of Architectural Review decisions
- Coastal Development Permit decisions
- Land Use Permit decisions
- Planning & Development Director's decisions
- Zoning Administrator's decisions

THIS PACKAGE CONTAINS _____

- ✓ APPLICATION FORM
- ✓ SUBMITTAL REQUIREMENTS

AND, IF ✓'D, ALSO CONTAINS _____

South County Office 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	Energy Division 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2040 Fax: (805) 568-2522	North County Office 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	Clerk of the Board 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax: (805) 568-2249
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Website: www.sbcountyplanning.org

SUBMITTAL REQUIREMENTS

- _____ 8 Copies of the attached application.
- _____ 8 Copies of a written explanation of the appeal including:
- If you are not the applicant, an explanation of how you are an “**aggrieved party**” (“Any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either.”);
 - A clear, complete and concise statement of the **reasons or grounds for appeal**:
 - Why the decision or determination is consistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; or
 - There was error or abuse of discretion;
 - The decision is not supported by the evidence presented for consideration;
 - There was a lack of a fair and impartial hearing; or
 - There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.
- _____ 1 Check payable to Planning & Development.

✓
✓ Note: There are additional requirements for certain appeals including:

- a. **Appeals regarding a previously approved discretionary permit** – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) How the discretionary permit’s conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed; 3) How the approval is inconsistent with Section 35.106 (Noticing).
- b. **Appeals regarding Residential Second Units (RSUs)** – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).



**PLANNING & DEVELOPMENT
APPEAL FORM**

SITE ADDRESS: 137 Sierra Vista Rd. Montecito, CA 93108

ASSESSOR PARCEL NUMBER: 013-166-009

Gross 1.09 Acres Net 1.09 Acres

COMPREHENSIVE/COASTAL PLAN DESIGNATION: Urban MPC SFD ZONING: MLUDC, 2-E-1

Are there previous permits/applications? no yes numbers: 12BAR-00000-00128 ; 12LUP-00000-00387
(include permit# & lot # if tract)

Are there previous environmental (CEQA) documents? no yes numbers: MPC det. Exempt Sec. 15270

1. **Appellant:** Brian & Jessica Kasztelan Phone: 619-721-6165 FAX: _____
Mailing Address: 2596 Seahorse Ave. Ventura, CA 93001 E-mail: jessiekaz@gmail.com
Street City State Zip

2. **Owner:** Brian & Jessica Kasztelan Phone: 619-721-6165 FAX: _____
Mailing Address: 2596 Seahorse Ave. Ventura, CA 93001 E-mail: jessiekaz@gmail.com
Street City State Zip

3. **Agent:** Jarrett Gorin, AICP / VPLLC Phone: 805-966-3966 FAX: _____
Mailing Address: 735 State Street, Suite 204 Santa Barbara, CA 93101 E-mail: jarrett.gorin@vanguardplanning.com
Street City State Zip

4. **Attorney:** _____ Phone: _____ FAX: _____
Mailing Address: _____ E-mail _____
Street City State Zip

COUNTY USE ONLY

Case Number: _____ Companion Case Number: _____
Supervisorial District: _____ Submittal Date: _____
Applicable Zoning Ordinance: _____ Receipt Number: _____
Project Planner: _____ Accepted for Processing _____
Zoning Designation: _____ Comp. Plan Designation _____

COUNTY OF SANTA BARBARA APPEAL TO THE :

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title: Kasztelan SFD- 137 Sierra Vista Rd. Montecito

Case No. 13APL-00000-00018, 13APL-00000-00026, 12BAR-00000-000128,
& 12LUP-00000-00387

Date of Action April 16, 2014

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? Montecito

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and “aggrieved party” as defined on page two of this appeal form:

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See Attached Letter Dated April 28, 2014.

Specific conditions imposed which I wish to appeal are (if applicable):

- a.

- b.

- c.

- d.

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Jarrett Gorin, AICP
Print name and sign – Firm  4/25/14
Date

Jarrett Gorin, AICP
Print name and sign - Preparer of this form 4/28/14
Date

Print name and sign - Applicant _____ Date

Jarrett Gorin, AICP
Print name and sign - Agent  4/28/14
Date

Brian Kasztelan
Jessica Kasztelan
Print name and sign - Landowner  4/28/14
Date

2014 APR 28 PM 3: 55

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

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April 28, 2014

Clerk of the Board of Supervisors
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101

Hand Delivered

**RE: Appeal of Montecito Planning Commission's April 16, 2014 Decision
Case Nos. 12LUP-000-00387, 13APL-00000-00018, and 13APL-00000-0026**

To Whom It May Concern:

Vanguard Planning LLC represents Brian and Jessica Kasztelan (the "Owner"), owners of 137 Sierra Vista Road (the "Subject Property") located in the Montecito area of the County of Santa Barbara (the "County").

This letter is an appeal of the Montecito Planning Commission (the "MPC") action on April 16, 2014 to uphold appeals filed by a neighboring property owner (hereinafter "Nolan") of a residential remodel and addition project (the "Project") originally approved by the Montecito Board of Architectural Review (the "MBAR") on August 26, 2013. The MPC's action and findings are documented in a Final Action Letter dated April 18, 2014 (the "MPC Action Letter") included as **ATTACHMENT A** to this letter.

This appeal is filed pursuant to Montecito Land use Development Code (the "LUDC") Section 35.492. The categorical basis for this appeal is that the MPC's action: 1) is based on factors that are unrelated to the required findings established by the LUDC; and 2) is dependent upon a unique and arbitrary definition of "neighborhood" that appears to be unprecedented and uniquely narrow in scope.

1.0 MPC's Findings Ignore the Text, Purpose and Intent of the Required LUDC Findings and are Inconsistent with Evidence in the Administrative Record

The MPC Action Letter cites the MPC's purported inability to make three (3) required findings as the basis for its decision to uphold Nolan's appeals.

1.1 Finding 1 of 3 (LUDC Sec. 35.472.070.F.1.a)

"Overall structure shapes, as well as parts of any structure (buildings, fences, screens, signs, towers, or walls) are in proportion to and in scale with other existing or permitted structures on the same site and in the area surrounding the property."

The MPC's inability to make this finding appears to be based primarily on the square footage of the proposed Project, rather than upon any of the design factors specifically identified in the LUDC finding text.

Square footage, in-and-of-itself, has no direct relationship to proportion and scale as identified in the finding text. Proportion and scale is affected by the shape of a structure and its mass, bulk & scale as perceived when viewing that structure in relationship to its surroundings from public viewing locations. The square footage of each structure *is not painted on the curb* in front of that structure, or otherwise made apparent to anyone experiencing that structure. Therefore, square footage statistics are not directly relevant to any County decision-maker's ability to make this finding.

A much smaller home than that contemplated by the Project could be designed in a way that maximized the height and mass experienced from public viewing locations such as the adjacent street. For example, a 2,388 s.f. design comprising three stories and an unarticulated façade located at the minimum setback from the street would be totally incompatible with the neighborhood surrounding the Subject Property even though its square footage would exactly match the average square footage cited in the MPC's finding for denial. There is a reason "structural area," "square footage," or even "size" are *not* including in the finding text. If these factors were directly relevant, or critical to determining whether a proposal is "*in proportion to and in scale with*" the surrounding area, these criteria would appear in the finding text.

In contrast, the MPC specifically states that the Project "*is designed to present a modest single story street-front elevation for public view.*" This supports the argument that the Project is in fact *compatible* with the surrounding neighborhood. However the finding text goes on to cite the proposed square footage, and that side and rear elevations of the proposed residence, which are not visible from any public viewing areas, are the basis that the proposed Project is not compatible with the surrounding neighborhood.

Furthermore, the LUDC finding text states that compatibility is supposed to be evaluated with respect to "*permitted structures on the same site and in the area surrounding the property.*" The MPC's finding is based purely on a comparison of the Project with homes on the adjacent lots, rather than the "*area surrounding the property*" which, although undefined, implies a larger sample of properties. Even assuming the MPC's incorrect interpretation of "*surrounding area*" statistics do not support their determination. The Project is well within all applicable zoning ordinance standards, and in fact *exceeds* critical standards such as side yard setback requirements as well as coming in under the maximum allowable height requirement. The MPC's arbitrary determination that the Project is incompatible with an entire neighborhood because it's side and rear elevations (which are well within applicable zoning requirements) are visible from private viewing areas on adjacent properties is inconsistent with the purpose and intent of this finding, and the manner in which the County has consistently interpreted and applied this finding in the past.

1.2 Finding 2 of 3 (LUDC Sec. 35.472.070.F.1.e)

"There will be a harmonious relationship with existing and proposed adjoining developments, avoiding excessive variety and monotonous repetition, but allowing similarity of style, if warranted."

As discussed in Section 1.1 above, the MPC's inability to make this finding is based purely on the square footage of the proposed Project. Square footage in-and-of-itself does not cause any proposal to be compatible, or incompatible with the surrounding neighborhood context.

The stated purpose and intent of this finding is to avoid "*excessive variety and monotonous repetition.*" This finding speaks entirely to *architectural style*, not to mass, bulk & scale or other specific physical characteristics that are already fully addressed by the finding discussed in Section 1.1 above. The

MPC does not address the architectural style of the Project *anywhere* in its finding. Instead the discussion focuses purely on the proposed square footage of the Project, *a criteria that is not identified* in this LUDC finding, and determines that square footage, rather than any of the criteria that *are* defined in the LUDC finding text is the basis for the MPC's inability to make this finding.

The MPC, in their finding text, fails to cite anything that allows us to determine precisely how the square footage of the Project prevents the project from being in a "*harmonious relationship with existing and proposed adjoining developments.*" Instead, their finding appears to suggest that *any* proposal which exceeds the mathematical average square footage of the "*neighborhood*", a term that is not defined anywhere, cannot be approved. This is a radical and unprecedented interpretation of this finding, and is totally unjustified given the appearance of the Project from any public viewing location.

1.3 Finding 3 of 3 (LUDC Sec. 35.472.070.F.1.e)

"Site layout, orientation and location of structures and signs will be in an appropriate and well designed relationship to one another, and to the environmental qualities, open spaces, and topography of the site with consideration for public views of the hillsides and the ocean and the semi-rural character of the community as viewed from scenic view corridors as shown on Figure 37, Visual Resources Map in the Montecito Community Plan EIR (92-EIR-03)." (emphasis added)

The proposed Project places all development in the portion of the Subject Property located nearest to the adjacent street, reducing required grading and site development to the maximum extent feasible, and preserving the largest possible contiguous open space area on the Subject Property.

As discussed in Section 1.1, the Project incorporates side yard setbacks that meet or exceed applicable zoning ordinance requirements. Applicable side yard setbacks, pursuant to LUDC Section 35.423.050 table 2-10 are ten (10) feet. In this case, the Eastern side yard setback (adjacent to Nolan's property) ranges from fourteen (14) up to twenty-three (23) feet. The Western side yard setback is ten (10) feet. Furthermore, the *actual distance* between the Project and the Nolan residence is a minimum of thirty-four (34) feet and the *actual distance* between the Project and the existing residence to the West is sixty-two (62) feet. These structure-to-structure separations are respectively 170% and 310% of the separations that would be provided by compliance with the applicable side yard setbacks prescribed by the LUDC which yield a twenty (20) foot structure-to-structure separation. Given these statistical facts, there is no basis whatsoever to support the MPC's determination that the Project "*crowds the neighboring houses with its two-story design on both the east and western elevations.*" Furthermore, the MPC's preceding statement that the "*proposed additions to the existing house on the lot extends into the western side setback*" is erroneous: all portions of the proposed structure are located *outside* of required setbacks.

The MPC's statement that the "*site layout, orientation, and location of the proposed addition to the home and new garage are inappropriate to the steeply sloped topography of the site*" is also totally without basis. The Project is located and designed such that grading and site alteration are minimized. Reconfiguration, of the proposed design or relocation to a different area of the Subject Property would result in larger grading quantities and more required alteration of existing topography.

For example, if the proposed garage were located further from the street (as has been repeatedly requested by Nolan) this would require: 1) an extension of the driveway and associated cut/fill; 2) a substantial increase in the amount of paved area onsite; and 3) a major amount of new fill placement

required beneath the new garage location in order to come anywhere close to meeting the required slope within the driveway.

The MPC's finding language in this case leads us to question whether the MPC adequately reviewed and/or understood the proposed Project prior to making their findings.

2.0 MPC's Action Depends Upon A Unique, Arbitrary, And Overly Narrow Definition Of "Neighborhood"

The concept of "*neighborhood*" as used in the findings above is not defined in the LUDC, or in any other adopted County document. Studies to determine neighborhood compatibility for previous proposals have been prepared by County staff using different standards including the following:

- One-quarter mile radius surrounding the project site
- "Like sized parcels" surrounding a proposed project site
- Informal map of Montecito area neighborhoods prepared by Claire Gottsdanker in 2007

Although all three of the above examples are different, a common theme is that each attempts to obtain a data sample from a relatively large area surrounding the project site in question.

In this case, the MPC relies on an unprecedented, and extremely narrow definition of "*neighborhood*": the seventeen (17) homes that take access from Sierra Vista Road and/or are adjacent to the Subject Property. This might represent a "street" or a "block" but cannot represent a "*neighborhood*" by any reasonable standard; and more importantly, by the standards that the County has consistently used in the past.

The properties that the MPC considered are identified in a Memorandum dated February 24, 2014 included as **ATTACHMENT B** to this letter. A review of the data from the extremely narrow "*neighborhood*" defined in this case indicates that the Project is roughly the same size as another existing home (201 Sierra Vista). **ATTACHMENT C** is an exhibit created using Google Maps that shows structural footprints on the Subject Property and the surrounding area. A review of this exhibit shows that the footprints of existing homes in the narrowly defined "*neighborhood*" the MPC considered are noticeably smaller than those of homes throughout the surrounding area. Therefore an analysis which takes into account only these homes does not provide an accurate representation of development present throughout the surrounding neighborhood as "*neighborhood*" has previously been interpreted by the County. The MPC should have evaluated compatibility with a reasonably defined neighborhood in this case, consistent with the manner in which the County has previously defined neighborhoods.

We assert again that square footage is not directly relevant to any of the findings in question. However, we believe that if a more consistent definition of "*neighborhood*" is applied in this case, the data will confirm that the square footage of the Project is consistent with existing development in the surrounding neighborhood. The MPC fails to identify any feature of the proposed project design, other than its square footage, as a basis for its findings. In the single instance where the MPC discusses the actual appearance of the project from public viewing locations, and therefore its compatibility with the neighborhood, the MPC states that the Project "*is designed to present a modest single story street-front elevation for public view.*"

April 28, 2014

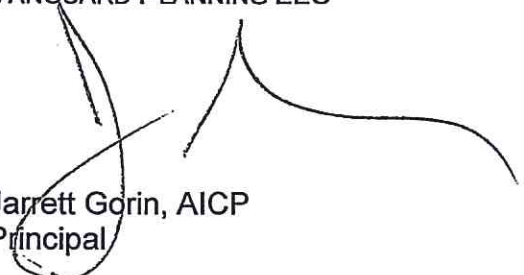
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We reserve the right to submit supplemental information in support of this appeal at any time prior to its consideration before the Board of Supervisors. Please let me know when a hearing date has been set.

If you have any questions about this appeal, you can reach me at (805) 966-3966 or via E-mail at jarrett.gorin@vanguardplanning.com.

Sincerely,

VANGUARD PLANNING LLC



Jarrett Gorin, AICP
Principal

ATTACHMENTS

- A. MPC Action Letter dated April 18, 2014
- B. Memorandum dated February 24, 2014
- C. Exhibit Showing Building Footprints in Surrounding Neighborhood

cc: **Brian Kasztelan**
Jessica Kasztelan

ATTACHMENT A

MPC Action Letter dated April 18, 2014



COUNTY OF SANTA BARBARA CALIFORNIA

MONTECITO PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU STREET
SANTA BARBARA, CALIFORNIA 93101-2058
PHONE: (805) 568-2000
FAX: (805) 568-2030

April 18, 2014

Paul and Virginia Nolan
135 Sierra Vista Road
Santa Barbara, CA 93108

MONTECITO PLANNING COMMISSION
HEARING OF APRIL 16, 2014

RE: *Appeal of the Kasztelan Single-Family Dwelling; 13APL-00000-00018, 13APL-00000-00026*

Hearing on the request of Derek Westen, agent for Paul & Virginia Nolan, to consider Case Nos. 13APL-00000-00018 & 13APL-00000-00026, [applications filed on September 5, 2013 & November 14, 2013, respectively] to appeal the Montecito Board of Architectural Review's approval of Case No. 12BAR-00000-00128 and the Planning Department's approval of Case No. 12LUP-00000-00387, in compliance with Chapter 35.492.040 of the Montecito Land Use and Development Code, on property located in the 2-E-1 zone district; and to determine the project is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Sections 15270 and 15301. The application involves APN 013-166-006, located at 137 Sierra Vista Road in the Montecito area, First Supervisorial District. (Continued from 2/19/14 and 2/26/14)

Dear Mr. and Ms. Nolan:

At the Montecito Planning Commission hearing of April 16, 2014, Commissioner Burrows moved, seconded by Commissioner Eidelson and carried by a vote of 2 to 1 (Phillips no, Brown recused, Overall absent) to:

1. Approve the appeals, Case Nos. 13APL-00000-00018 and 13APL-00000-00026;
2. Make the required findings for denial of Design Review case number 12BAR-0000-00128 and Land Use Permit number 12LUP-00000-00387, included as Attachment A of the staff report, dated January 30, 2014;
3. Determine that the project is exempt from the provisions of CEQA pursuant to state CEQA Guidelines Section 15270, as specified in Attachment C of the staff report, dated January 30, 2014; and
4. Grant *de novo* denial of Design Review case no. 12BAR-00000-00128 and Land Use Permit 12LUP-00000-00387.

The following changes were made at the Montecito Planning Commission Hearing:

- 1) Attachment A [Findings for Approval] to the staff report, dated January 30, 2014 was replaced by Attachment A [Findings for Denial] presented to the Commission at the hearing of April 16, 2014;
- 2) Attachment B [Land Use Permit w/Conditions of Approval] to the staff report, dated January 30, 2014 was removed from the staff report; and
- 3) Attachment C [Environmental Document: Notice of Exemption-15301] to the staff report, dated February 13, 2014 was replaced by Attachment C [Environmental Document: Notice of Exemption-15270] presented to the Commission at the hearing and dated April 16, 2014;

The attached findings and conditions reflect the Montecito Planning Commission's actions of April 16, 2014.

The action of the Montecito Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have informed the Montecito Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Montecito Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on Monday, April 28, 2014 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$648.26 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA at the same time the appeal is filed.

Sincerely,



Dianne M. Black
Secretary to the Montecito Planning Commission

cc: Case File: 13APL-00000-00018, 13APL-00000-00026
Montecito Planning Commission File
Montecito Association, P.O. Box 5278, Montecito, CA 93150
Owner: Jessica Kasztlan, 2596 Seahorse Avenue, Ventura, CA 93001
Architect: Bob Easton, 1486 E. Valley Road, Santa Barbara, CA 93108
Appellant Agent: Derek Westen, 1800 Jelinda Drive, Santa Barbara, CA 93108
County Chief Appraiser
County Surveyor
Fire Department
Flood Control
Community Services Department

Montecito Planning Commission Hearing of April 16, 2014
Appeal of the Kasztelan Single-Family Dwelling; 13APL-00000-00018, 13APL-00000-00026
Page 3

Public Works
Environmental Health Services
APCD
Supervisor Carbajal, First District
Commissioner Eidelson
Commissioner Burrows
Commissioner Phillips
Commissioner Overall
Commissioner Brown
Brian Pettit, Deputy County Counsel
J. Ritterbeck, Planner

Attachments: Attachment A – Findings for Denial

DMB/dmv

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ATTACHMENT A

FINDINGS FOR DENIAL

KASZTELAN SFD
12LUP-00000-00387 & 12BAR-00000-00128

1.0 CEQA FINDINGS

The project, Case Nos. 12LUP-00000-00387 and 12BAR-00000-00128, can be found exempt from environmental review based upon Section 15270 [Projects Which Are Disapproved] of the California Environmental Quality Act (CEQA) guidelines. CEQA Section 15270 is intended to allow an initial screening of projects on their merits for disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. Because the project is inconsistent with applicable County Land Use Plan policies, including the Montecito Community Plan, and therefore cannot be approved, this finding can be made.

2.0 DESIGN REVIEW FINDINGS

In compliance with Subsection 35.472.070.F of the Montecito Land Use and Development Code, an application for Design Review can be approved only if the following required findings can be made:

- a. *Overall structure shapes, as well as parts of any structure (buildings, fences, screens, signs, towers, or walls) are in proportion to and in scale with other existing or permitted structures on the same site and in the area surrounding the property.*

Although the house is designed to present a modest single story street-front elevation for public view, the two-story nature of the originally approved 4,930 sq.ft. house and as revised and presented to the Commission as Option #1 are visible from the rear and side elevations. The natural topography around the home drops steeply along the side elevations changing the house from a single to a two-story presentation, which is out of proportion and out of scale with other existing structures in the area surrounding the property that have an average size of 2,388 square feet. In sum, as designed, the proposed project is not compatible with the size of other existing houses in the neighborhood. Therefore, this finding cannot be made.

- e. *There will be a harmonious relationship with existing and proposed adjoining developments, avoiding excessive variety and monotonous repetition, but allowing similarity of style, if warranted.*

The originally approved 4,930 sq.ft. house and the revised Option #1 presented to the Commission at the hearing of April 16, 2014 will be in nearly twice the total square footage of surrounding homes in the immediate neighborhood. Because other homes in the neighborhood average 2,388 square feet in size, the proposed dwelling with its size differential creates an unharmonious relationship of the sizes of homes throughout the adjacent neighborhood and adjoining development. Therefore, this finding cannot be made.

- f. *Site layout, orientation and location of structures and signs will be in an appropriate and well designed relationship to one another, and to the environmental qualities, open spaces, and topography of the site with consideration for public views of the hillsides and the ocean and the semi-rural character of the community as viewed from scenic view corridors as shown on Figure 37, Visual Resources Map in the Montecito Community Plan EIR (92-EIR-03).*

Based on the site's topography, the proposed two-story home is situated in the northernmost portion of the lot closest to Sierra Vista Road and closest to its immediate neighbors. The location of the proposed additions to the existing house on the lot extends into the western side setback and crowds the neighboring houses with its two-story design on both the east and western elevations. The design is not consistent with the semi-rural character of the surrounding community that has maximized the amount of open space areas between homes and their respective side property boundaries. Therefore the site layout, orientation, and location of the proposed addition to the home and new garage are inappropriate to the steeply sloped topography of the site. Therefore, this finding cannot be made.

3.0 LAND USE PERMIT FINDINGS

In compliance with Subsection 35.472.110.E of the Montecito Land Use and Development Code, a Land Use Permit can only be approved if the review authority can make all of the required findings.

- 1.a *The proposed development conforms to the applicable provisions of the Comprehensive Plan including the Montecito Community Plan and with the applicable provisions of this Development Code, or falls within the limited exception allowed in compliance with Chapter 35.491 (Nonconforming Uses, Structures, and Lots).*

The proposed development is incompatible with the character of the existing community. Both the Land Use Permit application and the Design Review application are inconsistent with the Montecito Design Guidelines, Section III.B as they relate to the size, bulk and scale of proposed development. The location of the house on the lot crowds the neighboring houses with its two-story design and is not consistent with the semi-rural character of the surrounding community. The originally approved 4,930 sq.ft. house and the revised Option #1 presented to the Commission at the hearing of April 16, 2014 will be nearly twice the size of surrounding homes in the immediate neighborhood, creating an unharmonious relationship with the adjoining development. Visual Resource Policy #3 of the County Comprehensive Plan, Land Use Element states that:

"In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged."

As designed, the proposed project is not consistent with Visual Resource Policy #3. Therefore, this finding cannot be made.

ATTACHMENT B

Memorandum dated February 24, 2014

**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: Montecito Planning Commission
FROM: Alice McCurdy, Deputy Director *Alice McCurdy*
DATE: February 24, 2014
RE: Nolan Appeal of the Kasztelan SFD
13APL-00000-00018 & 13APL-00000-00026
APN 013-166-006, located at 137 Sierra Vista Road

During the regularly scheduled Montecito Planning Commission (MPC) hearing on February 19, 2014, Commissioner Overall requested that staff provide a memo to the Commission addressing the issues raised in Mr. Weston's letter to the MPC dated February 12, 2014.

Background: Mr. Weston's letter addresses an FAR study originally prepared by Mr. John Watson, a member of the Montecito Board of Architectural Review (MBAR). That FAR study was considered by the MBAR during their hearings on this matter. At the conclusion of its deliberations, the MBAR approved the project by a 5-2 vote (Watson and Gottsdanker voting no), finding that it was well-designed and compatible with the surrounding neighborhood.

Source Data: The FAR study addressed in Mr. Weston's letter appears to have used house size data from the County Assessor's website. The data used by the Assessor are derived from Building & Safety permits. In order to calculate FAR's within the Montecito area, Development Review staff uses PhotoMapper data which are derived from zoning permits, and which define net floor area consistent with the Montecito Land Use & Development Code, Section 35.500.020 (Definitions of Specialized Terms and Phrases).

Neighborhood Study Area: The FAR study referenced in Mr. Weston's letter defines "neighborhood" as lots that are located within approximately 600 feet of the Kasztelan's lot and which are within 25% of the size of the Kasztelan's 1.09-acre lot.¹ The FAR study area prepared by Development Review staff utilized proximity to the subject parcel as the defining characteristic, and included homes built on single lots and located on all sides of the Kasztelan's lot as well as homes near the Kasztelan property on lots taking access from Sierra Vista Road. Overlapping the two study areas reveals that of the 15-lot neighborhood identified by Mr. Watson, eight of these lots are also included in P&D's 18-lot neighborhood analysis.²

Summary: As provided within the Montecito Architectural Guidelines and Development Standards, pg. 12:

"In certain neighborhoods, the recommended maximum [FAR] may not reflect the appropriate level of development. In those cases, neighborhood compatibility shall be the determining factor."

¹ Referred to as "Parcel Size Variant" within Watson Study and yielding a range between 0.82-acres and 1.36-acres in size.

² See attached map comparison of study areas.

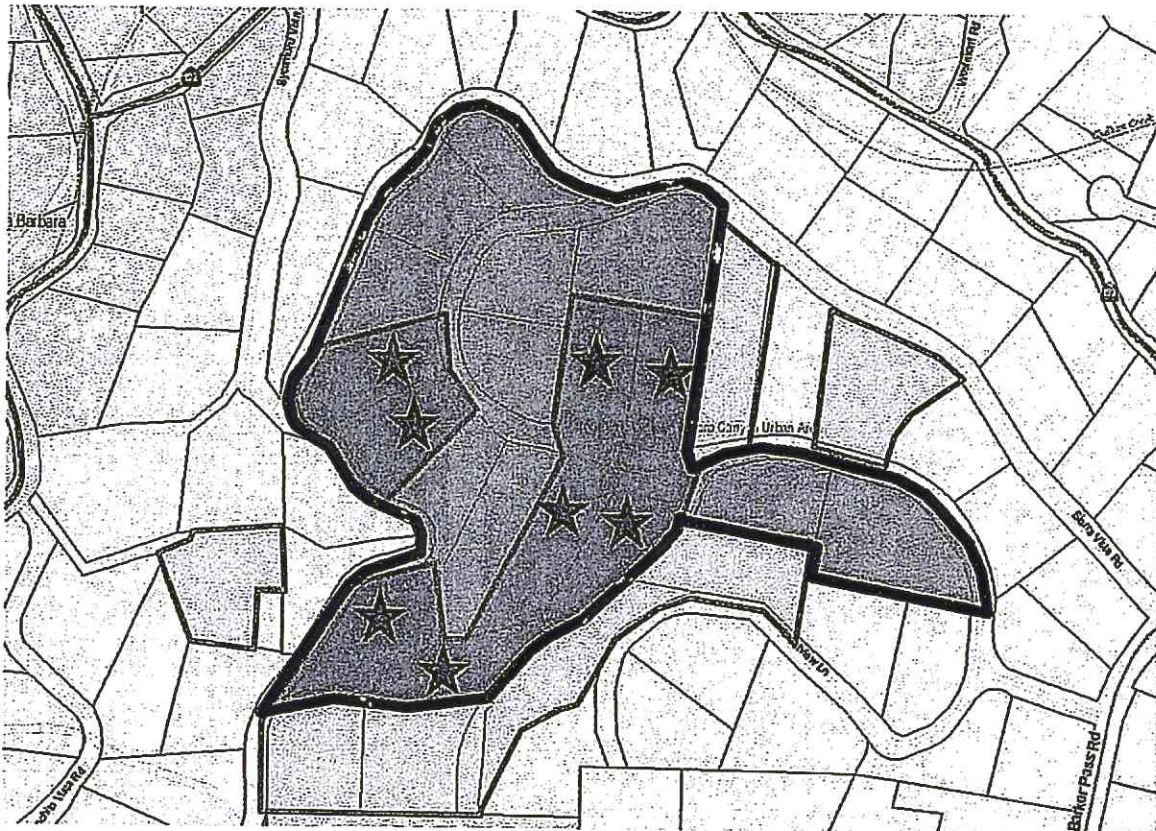
Conclusion: As provided within the Montecito Architectural Guidelines and Development Standards, pg. 12:

“In certain neighborhoods, the recommended maximum [FAR] may not reflect the appropriate level of development. In those cases, neighborhood compatibility shall be the determining factor.”

Furthermore, as provided in the same Guidelines, pg. 10, “neighborhood compatibility” is defined as:

“[t]he relationship between surrounding structures and their settings so that the effect of all structures taken together is aesthetically pleasing, keeping the neighborhood in harmony and balance.”

The Kasztelan project presents a modest single story elevation to public views in from Sierra Vista Road and is well designed to fit into the neighborhood aesthetic. The project also softens private views in by use of ample landscaping on both side elevations. As such, staff supports the MBAR’s 5-2 approval of this project and recommends that your Commission determine that the project is appropriately designed and is compatible with the surrounding neighborhood, and follow staff’s recommended actions provided within the staff report, dated January 30, 2014.

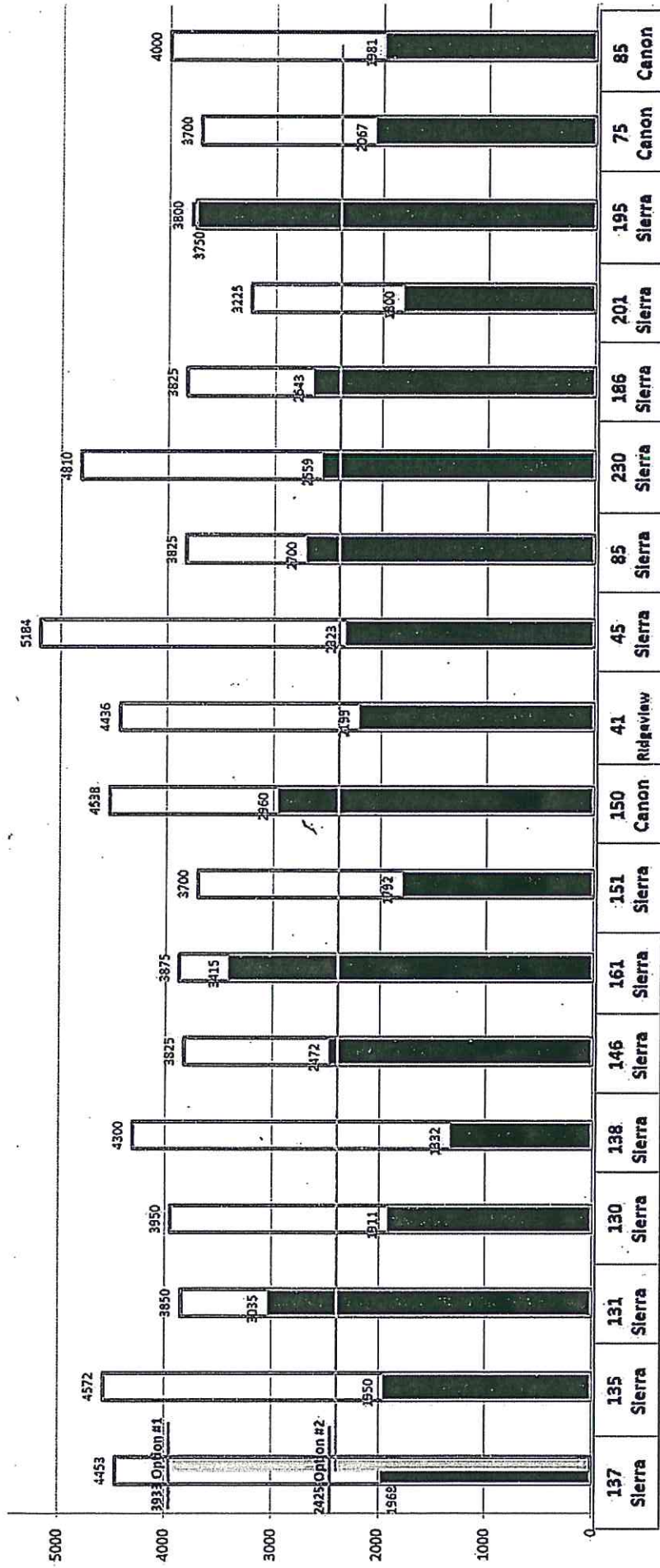


Watson FAR neighborhood study area shown in BLUE.

P&D neighborhood analysis depicted in RED.

Overlapping lots shown with RED STARS.

ATTACHMENT A



(E) SFD sq. ft.
 Max. Rec. FAR
 Neighborhood Average (E) SFDs (2388 sq.ft.)

ATTACHMENT C

Exhibit Showing Building Footprints in Surrounding Neighborhood

