

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:

Prepared on: 4/3/06
Department Name: Planning & Development
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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. **Deny** the appeal, upholding the decision of the Montecito Planning Commission 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 and December 8, 2005.

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

Two separate legal lots comprise the oceanfront Klink property at 1787 Fernald Point Lane, although the two lots have been used as one 1.06 acre residential property (both under APN 007-380-008) since at least 1932, when the existing single-family residence was first constructed. Site development on the larger of the two lots includes a 6,021 square foot single-family residence, 458 square foot non-conforming second residential unit, 636 square foot non-conforming detached garage and a 375 square foot non-conforming beach cabana. Site development on the smaller and narrower lot includes a pool, a fountain, landscaping and patio areas.

On October 19, 2005, two proposals (one on each of the legal lots) were heard by the Montecito Planning Commission: the Klink Single-Family Dwelling Addition (04CDH-00000-00039), and Klink New Single-Family Dwelling (04CDH-00000-00042). The Montecito Planning Commission (MPC) approved the Klink SFD Addition, based on the findings set forth in the Montecito Planning Commission Action Letter dated October 20, 2005, the requirements of Article II of Chapter 35 of the County Code, and the project's consistency with the policies and development standards of the Montecito Community Plan and Coastal Land Use Plan. The Montecito Planning Commission was not prepared to approve the second proposal, the Klink New SFD (04CDH-00000-00042), and continued the hearing for that project to November 16, 2005.

On October 31, 2005, Chip Wullbrandt, on behalf of Robert T. and Darcy Gelber, Paul and Sallie Flum, Ichak and Nurit Adizes and Larry and Sharon Grassini (all neighbors to the proposed projects), submitted an appeal of the Montecito Planning Commission approval of the Klink Addition.

In continuing the hearing on the Klink New SFD (case number 04CDH-00000-00042), the Montecito Planning Commission directed the applicants to return to the Montecito Board of Architectural Review (MBAR) for further design review and directed the applicants to revise their plans per MBAR comments. Story poles were erected on site, and the MBAR conducted a site visit. The MBAR gave further conceptual review of the project at their meeting of November 7, 2005, and P&D staff brought their comments back to the Montecito Planning Commission.

On November 16, 2005, the Montecito Planning Commission approved the Klink New SFD under case number 04CDH-00000-00042, based on the findings set forth in the Montecito Planning Commission Action Letter dated December 8, 2005, confirming the consistency of the project with the requirements of Article II of Chapter 35 of the County Code and the project's

conformance with the policies and development standards of the Montecito Community Plan and Coastal Land Use Plan. As shown in the Action Letter, the MPC approval included several new or revised project conditions that required design revisions, and a condition that directed the MBAR to take into consideration several specific additional design revisions during their review and approval process.

On November 28, 2005, Chip Wullbrandt, on behalf of Robert T. and Darcy Gelber, Paul and Sallie Flum, Ichak and Nurit Adizes and Larry and Shannon Grassini, submitted an appeal of the Montecito Planning Commission approval of the Klink New SFD.

Issue Summary

The appellants have a range of concerns and issues, including size, scale and neighborhood compatibility, parcel validity, driveway access, the impact of the project on trees, the size and scale of the garage and basement portions of the project and the expected increased intensity of use on the Klink property. All of these concerns will be addressed in further detail below.

Klink Single-Family Dwelling (SFD) Addition [# 04CDH-00000-00039]:

The proposed Klink SFD Addition project is for a 246 square foot addition, a 425 square foot new deck and a 500 square foot remodel to the existing 6,021 square foot single-family residence. The existing residence is on the larger of the two legal lots (32,087 square feet) on the Klink property. Including the proposed addition, the residence would be slightly under twice the recommended maximum floor area (FAR) for that parcel size specified in the Montecito Architectural Guidelines.

The applicant provided P&D with a Historic Resources letter report from Post Hazeltine Associates that concludes that alterations to the property at 1787 Fernald Point Lane would not result in significant impacts to a potential historic resource.

In the appeal letter to the Board dated October 31, 2005, Chip Wullbrandt, on behalf of the appellants, states in part: "Appellants would not be opposing the remodel and addition portion of the Klink project if it were not severed from the remainder of the project, but must file this appeal in order to raise objections to the proposed development of a second parcel with a new, separate residence..." The stated concern of the appellants appears to be that while the proposed addition and remodel to the existing residence is relatively minor, the cumulative effects of both projects on both Klink lots should be considered in tandem. Thus, the two appeal requests for the Klink proposals are being brought forward as one combined appeal.

Klink New Single-Family Dwelling [# 04CDH-00000-00042]:

The Klink New SFD project as approved by the MPC is for a 2,609 square foot single-family residence with an attached 400 square foot garage. The proposed new home would meet the recommended maximum floor area (FAR) for that parcel size specified in the Montecito Architectural Guidelines.

Existing development on the 13,524 square foot lot includes a swimming pool, plaster walls and paved patio areas. The garage would have a 2-car footprint, but would have a 4-car capacity by virtue of a basement level with a lifter device. The first floor area is 1,744 square feet and the second floor area is 865 square feet. The average height would be 20.9 feet. Approximately 50 cubic yards of cut, 50 cubic yards of fill and 100 cubic yards of recompaction grading would be required. Two magnolia trees and one palm tree are proposed to be removed or relocated. The existing swimming pool is proposed to be relocated to the south of its existing location to make room for the footprint of the proposed new home. 200 cubic yards of cut and 200 cubic yards of fill would be required in order to relocate the pool.

At the October 19, 2005 hearing of the Montecito Planning Commission, the MPC continued the project to November 16, 2005, requesting that the project be re-designed, and that the applicants return to the MBAR for further review. The general direction from the MPC was that the project should be scaled back, and / or that the second story element should be reduced. There were also specific concerns about the overall site design, such as whether or not a separate driveway entrance from Fernald Point Lane was appropriate. The applicants returned to the MBAR for further conceptual review on November 7, 2005, with plans that showed revisions to the second story layout, the footprint of the structure, and the bulk and roofline of the garage.

At the November 16, 2005 MPC hearing the Klink New SFD dwelling was approved, with a slightly revised floor plan and revised footprint that reduced the second floor area by approximately 500 square feet from the earlier design, but with approximately the same total square footage as proposed earlier, and with a separate driveway from Fernald Point Lane still a part of the site plan. The MPC approval was subject to final approval by the MBAR and subject to a number of new and revised project conditions. Among the revisions were the direction to further reduce and set back the second floor area, to provide an arborist's report addressing protection and mitigation of impacts to trees in the project area, new landscaping requirements near the proposed new driveway and an advisory that the MBAR should consider requiring further specific design revisions.

The MBAR gave further conceptual review to the project on January 9, 2006. Because the project is on appeal to the Board of Supervisors, the MBAR made comments (see Attachment E) but did not make any motions on the project. All MBAR planner memos and minutes are attached.

Appellant Issues

Size, Scale and Neighborhood Compatibility

The appellants are concerned that the scale and siting of the proposed project and the added visual density is out of character with the existing neighborhood, and will have an impact upon property values.

The appellants have expressed a preference for a "compound" site design that would retain more of the look and feel of a single estate, and asked if the Klinks would consider a voluntary deed restriction to preclude separate sale or rental of the new residence.

The neighbor who is directly to the east of the Klink property feels particularly impacted by the second story element of the proposed new home, which he states would create a “wall” effect that would partially block his west views and put his home in shadow by early afternoon, given the tight setbacks.

As approved by the Montecito Planning Commission, the proposed new single-family dwelling meets all zoning requirements, including setbacks, height and provision of parking. The proposal is also consistent with Montecito Architectural Guidelines and Development Standards Floor Area Ratio (FAR) guidelines. The MPC approval for the dwelling is conditioned upon final approval by the Montecito BAR, who would be the final arbiters of several outstanding design concerns such as the location of a chimney, finished floor grade, basement plan, setback of the second story and landscaping.

Much of the residential development on surrounding Fernald Point Lane parcels is substantially over the recommended FARs, including the adjacent Klink lot with the existing residence. The existing 6,021 square foot home is in excess of the recommended FARs even when both Klink lots (total of 1.06 acre) are included together in the calculations, which may contribute to the appellants’ perception that a new home on the smaller, narrow lot is inconsistent with the scale of an already highly developed estate neighborhood.

In order to address all of these concerns, project approval by the MPC was conditioned upon final review, design direction and approval by the MBAR, with the intent that the MBAR would be best qualified to consider the impacts of the project upon neighborhood aesthetics.

Parcel Validity

During the MPC hearings, the appellants challenged the separate legal status of the two Klink lots. While the two lots were legally conveyed and recorded without restriction or conditions on their conveyance, the appellant’s position is in part based on the argument that the Klink property has always been developed and used as a single residential estate. It has been argued that the creation and conveyance of the smaller and narrower lot by the former neighbor to east to the former owners of the Klink property was intended to create a more reasonable parcel width for the existing residential estate, consistent with the neighborhood, rather than for the creation of a separately developable parcel.

In 2000, the Klinks discovered the existence of underlying lots within their parcel and evidence of separate conveyance of those lots. Valid Certificates of Compliance (with no conditions) were recorded for the two legal lots that comprise APN 007-380-008.

At the October 19, 2005 MPC hearing, Alan Seltzer of County Counsel and Michael Emmons of the Surveyors office offered detailed presentations that demonstrated to the satisfaction of the MPC that the legality of the two lots was assured.

As already discussed under the topic of neighborhood compatibility, the appellants have expressed a preference for a “compound” site design, but to the extent that all zoning

requirements can be met, the two Klink lots can be developed and conveyed separately at the owners' option. The zoning of the Klink property is 1-E-1, which would restrict the creation of new parcels less than 1 acre in size. However, there are no restrictions on the development of existing legal parcels, regardless of size, subject to zoning compliance and policy consistency.

Driveway Access

As proposed, two separate driveways in close proximity raise safety and aesthetic concerns for the neighbors. The appellants have expressed a strong preference for a revised site design that would allow access to the proposed new SFD from the existing driveway serving the existing Klink residence, rather than by creating a second driveway from Fernald Point Lane within 15-20 feet of the existing entrance. 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 concern is the potential impact that the new 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).

From a public safety perspective, Jim Langhorne of Montecito Fire has stated to staff that there is no preference for one driveway or two, provided that all standard Fire requirements can be met.

An earlier proposal by the Klinks for a new residence on their property did propose an access easement across one lot for the other, and there are no site constraints that would not allow for such a design to be approved. Modification to the existing Klink access for a single-driveway plan would involve creating an opening somewhere along the east edge of the existing driveway within the larger lot to access the smaller lot, and, depending upon its location, would require an extension of the existing hardscape on the larger lot of approximately 20 feet or less.

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 has 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 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.

Project Impacts to Trees

The appellants are concerned about the two to three specimen trees that may need to be removed or relocated for the proposed project. Of particular concern to the appellants is 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.

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.

In response to concerns expressed by the neighbors during the MPC hearings, the MPC approval included a condition that required the applicants to provide a report by a County-approved arborist that addresses protection from impacts to trees in the project vicinity, and further requires that all arborist's recommendations shall be implemented.

The applicant provided an arborist's report (dated January 10, 2006) to P&D in mid-January, after the MPC approval and after the most recent review by the MBAR. Because the arborist's report did not specifically address the proposed basement excavation, P&D requested additional comment from the Klinks' arborist, and was provided an addendum dated February 2, 2006. The easterly neighbor, Robert Gelber, also commissioned an arborist's report (dated December 16, 2005) from another County-approved arborist, and both reports are attached (see Attachment F). Both reports conclude that the root system of the magnolia tree in question would 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. However, a condition incorporated in the MPC approval of the project requires mitigation of tree damage and replacement of any trees lost due to construction activities. In their most recent conceptual review of the project on January 9, 2006, the MBAR stated that they would like to comment further on the finished floor and on the trees after the applicant had submitted their arborists' report, which had not yet been made available to P&D or to the MBAR at the date of that review.

Proposed 4-Car Garage with Basement

Several issues have been raised by the appellants in regards to the proposed garage. There are concerns that the number of proposed parking spaces is indicative of the expected intensity of use of the new home (see discussion below), and the potential for increased traffic on Fernald Point Lane. The aesthetic issue is that the garage area adds to the size, bulk, length and visual impact of the proposed structure on its narrow lot. The third concern is that the over-excavation required for the proposed basement will intensify adverse impacts to the large magnolia tree within its critical root zone (see tree discussion and attached arborists' memos).

Existing parking on the Klink property, all of which is on the larger of the two lots, consists of a 3-car garage and uncovered parking for approximately 4-7 more vehicles in the widened hardscape area at the end of the driveway north of the existing residence. The attached garage that is proposed for the new residence would have a two-car footprint, but would have a basement level with a lifter mechanism that would stack two more cars below, for a total of four covered parking spaces. Per ordinance, two parking spaces (either covered or uncovered) are required for the new residence.

The MBAR has already effected a re-design of the proposed garage and its roofline in order to improve its appearance. Plans submitted thus far to the MPC and to the MBAR have shown the basement area only as dotted lines. At the January 9, 2006 MBAR meeting, the MBAR commented that the applicant needed to return with more details of the basement area so that the MBAR could meaningfully review it.

Intensity of Use

The appellants are concerned that the existing Klink residence is responsible for a disproportionate amount of traffic and activity on Fernald Point Lane. The proposed size of the living quarters and garage parking facilities for the new residence raises neighbor concerns that existing traffic and other impacts generated by the Klink property would double.

Any new residential development will bring additional people and vehicles to a neighborhood, but the increased use impacts of one new residence is less than significant from a planning perspective, and because the Fernald Point Lane neighborhood is almost entirely built out per current zoning, further cumulative impacts from intensification of residential uses would also be less than considerable.

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 complete noticing in the Santa Barbara News Press and shall complete the mailed noticing for the project at least ten (10) days prior to the hearing (mailing labels attached.)

Pursuant to Government Code Sections 65355 and 65090, a notice shall be published in at least one newspaper of general circulation.

Pursuant to Government Code Section 65091, mailed notice required to property owners within 300 feet of the project, including the real property owners, project applicant and local agencies expected to provide essential services, shall be done at least 10 days prior to the hearing.

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: Alice Daly, Planner III

Attachments:

A. Appeal Letters

1. Klink SFD Addition Appeal [04CDH-00000-00039] to BOS dated October 31, 2005
2. Klink New SFD Appeal [04CDH-00000-00042] to BOS dated November 28, 2005

B. Staff Reports

1. Klink SFD Addition [04CDH-00000-00039] Staff Report dated October 7, 2005
2. Klink New SFD [04CDH-00000-00042] Staff Report dated October 7, 2005

C. Action Letters

1. Klink SFD Addition [04CDH-00000-00039] Action Letter dated October 21, 2005
2. Klink New SFD [04CDH-00000-00042] Action Letter dated December 8, 2005

D. Appellants' Letters to the MPC

1. Letter dated October 14, 2005
2. Letter dated November 14, 2005

E. MBAR planner memos and minutes

F. Arborists' Reports dated January 9 and February 2, 2006 (Duke McPherson for the Klinks) and December 16, 2005 (Bill Spiewak for the appellants)