

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Prepared on: February 9, 2006
Department Name: Planning & Development
Department No.: 053
Agenda Date: February 21, 2006
Placement: Departmental
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If Yes, date from:
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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning & Development

STAFF CONTACT: Steve Chase, Deputy Director
568-2520

SUBJECT: Hearing for Peter Sperling's Appeal of the Montecito Planning Commission's Denial of the Sperling Fence [05CUP-00000-00046], located at 675 Picacho Lane, Montecito Community Plan area, First Supervisorial District [BOS Appeal Case No. 05APL-00000-00035]

Recommendation:

That the Board of Supervisors deny the appeal by Peter Sperling and uphold the Montecito Planning Commission's November 16, 2005 denial of the Sperling Fence project, 05CUP-00000-00046.

The Board of Supervisors' action should include the following:

1. Adopt the required findings for denial of the project as specified in the Montecito Planning Commission's Action letter dated November 22, 2005 included as Attachment A of this Board Agenda Letter.
2. Deny the appeal and uphold the decision of the Montecito Planning Commission to deny 05CUP-00000-00026.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

Background

This project originally came to the County as a zoning violation due to the fact that a 10 foot high black vinyl fence was located within the setback area without the proper permits. Any fence exceeding six feet in height located within the setback area requires a Minor Conditional Use Permit (CUP), and a follow-up Land Use Permit (LUP). In Montecito, Minor CUPs are under the jurisdiction of the Montecito Planning Commission. The Montecito Planning Commission first considered the Sperling Fence project on October 19, 2005. The applicant's request consisted of a 10 foot high fence to be located around the entire perimeter of the 10.66 acre property, which consists of two separate parcels (APNs 011-130-022 & -019). To achieve complete enclosure of the property, the existing 10 foot high sections of the fence located within the setbacks would be legalized, existing six foot high sections would be raised to 10 feet, and a new 10 foot high section would be installed. The fence would be located within the 10' interior lot setbacks on APN 011-130-022, and within the front (50' from CL/20' from ROW), side (10'), and rear yard setbacks on APN 011-130-019.

Originally, County staff recommended approval of this project, and concluded that all of the required findings could be made. However, the Montecito Planning Commission received unfavorable comments about the location, height, and appearance of the fence from the adjacent neighbors and the Chair of the Montecito Board of Architectural Review. The Montecito Planning Commission determined that the 10 foot high fence would be visually imposing and incompatible with the surrounding area, as it would run conterminous with the property line for a majority of its length. This location would preclude adequate screening of the fence along the common property lines with adjoining neighbors, and adjacent public and private roads.

At the October 19, 2005 hearing, the Montecito Planning Commission discussed the fact that the applicant has two other options for pursuing a fence on the property which would not require a CUP. If the applicant chose to pursue either of these two options, the project would be more compatible with the surrounding area, as follows:

- 1) Reduce the height of the fence to six feet within the setback areas, thereby avoiding the need for a CUP and LUP.
- 2) Relocate the 10 foot high fence outside of the setback areas, thereby avoiding the need for a CUP. Only a ministerial level LUP would be required.

As discussed above, the applicant has other avenues available to him which would allow him to achieve his goal of locating a fence on the property without a CUP.

The Montecito Planning Commission concluded that the following finding could not be made: *"That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will be compatible with the surrounding area."* As a CUP can only be approved if all of the findings can be made, the Montecito Planning Commission continued the project to November 16, 2005 and directed staff to return with findings for denial of the project. The following denial finding was made at the November 16, 2005 hearing:

That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will be compatible with the surrounding area.

The project would be detrimental to the general welfare of the neighborhood, due to the fact that it would be visually imposing and incompatible with the surrounding area. Enclosing the entire property of approximately 10.66 acres with a 10 foot high chain link fence would be incompatible along the common property lines with adjoining neighbors, and along the adjacent public and private roads. Typically, fencing in Montecito is set back a sufficient distance from the property line to allow for large and well maintained shrubs, such as pittosporum, to flank both sides of the fence and screen it from view. The end result is one of a full hedge, with the fence completely obscured. The current proposal would site the 10 foot high fence directly along the property line for a majority of its length, which would not provide sufficient room to screen the 10 foot high fence in manner that would be compatible with the full hedge screening typical of Montecito. Therefore, the project is not consistent with this finding.

Appellant Issues

Peter Sperling appealed the Montecito Planning Commission's denial of his project. His letter states that the denial was unjustified in light of the evidence presented in staff's original staff report and presentation for the October 19, 2005 hearing, which indicated that all of the required findings could be made to approve the project.

Although County staff analyzes projects and provides recommendations to the Montecito Planning Commission regarding a project's approvability, the Montecito Planning Commission is the final decision maker. The Montecito Planning Commission reviews staff's analysis and recommendations, and has the jurisdiction to accept, reject, or modify any of these in their final action. As discussed above, the Montecito Planning Commission found that one of the findings could not be made for the Sperling project. Therefore, the Montecito Planning Commission denied the project.

In his appeal letter, Peter Sperling also indicates that he was willing to accept an additional condition that would have required him to return to the Montecito Board of Architectural Review and work with that body to devise acceptable landscaping to screen the fence. He states that approval of the project with this condition would have been a preferred outcome, rather than denial of the project.

However, the Montecito Planning Commission found that locating the 10 foot high fence within the setbacks, which is the reason why a CUP is required, would not provide enough room to adequately screen a fence of that height. Typically in Montecito, chain link fences are planted on both sides with shrubs to achieve, upon maturity, the appearance of a tall hedge. Therefore, they denied the project and provided the other permitting options for the applicant to pursue which would be more compatible with the surrounding area, as discussed above.

Mandates and Service Levels:

Section 35-489.3.1 of Article IV of Chapter 35 of the County Code provides that the decisions of the Montecito Planning Commission may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such decision.

Pursuant to Sections 65090 - 65096 of the California Government Code, a notice shall be published in at least one newspaper of general circulation within the County, at least 10 calendar days prior to the hearing.

Pursuant to Sections 65090 - 65096 of the California Government Code, notice shall be mailed to the owners of the property within 300 feet of the exterior boundaries of the affected property at least 10 calendar days prior to the hearing.

Fiscal and Facilities Impacts:

As this is an applicant appeal to the Board, an appeal application flat fee of \$2,000 was required per the Planning & Development fee schedule in effect at the time of appeal application (Resolution No. 04-060, adopted by the Board of Supervisors on March 15, 2004). Costs beyond the fixed fee are borne by Planning and Development. These funds are budgeted in the Permitting and Compliance program in the Development Review South Division on page D-294 of the adopted 05/06 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 10 calendar days prior to the February 21, 2006 hearing (mailing labels attached).

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

Concurrence: None

Prepared by: Lisa Hosale, Planner

Attachments:

- A. Montecito Planning Commission Action letter, November 22, 2005
- B. Montecito BAR notes
- C. Applicant's Appeal Letter
- D. Original Staff Report for 05CUP-00000-00046

ATTACHMENT A

ATTACHMENT B

ATTACHMENT C

ATTACHMENT D