



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning and
Development
Department No.: 053
For Agenda Of: July 19, 2016
Placement: Departmental
Estimated Tme: 1 hour
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell, Ph.D. Director, Planning and Development
(805) 568-2085
Contact Info: Jeff Wilson, Deputy Director, Development Review
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**SUBJECT: Olsten Trust Appeal (16APL-00000-00007) of the Montecito Planning
Commission's Denial of Case No. 14CDH-00000-00014, First Supervisorial District**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Consider Case No. 16APL-00000-00007, the Olsten Trust Appeal of the Montecito Planning Commission's March 23, 2016 denial of the Olsten Trust Single-Family Dwelling Demo-Rebuild, New Detached Garage, Pool Cabaña, and Pool (Case No. 14CDH-00000-00014), and take the following actions:

- a) Deny the appeal, Case No. 16APL-00000-00007;
- b) Make the required findings for denial of the project, including CEQA findings, included as Exhibit 1 to this Board Letter;
- c) Determine that denial of the project is exempt from CEQA pursuant to Section 15270 of the State Guidelines for the implementation of the California Environmental Quality Act, as specified in Exhibit 2; and
- d) Deny the project *de novo*, Case No. 14CDH-00000-00014.

Alternatively, refer back to staff if your Board takes other than the recommended action for appropriate findings and conditions of approval.

Summary Text:

The project is for a Coastal Development Permit to allow demolition of the existing 3,802 square foot two-story residence (with the first floor being approximately 3,136 square feet and the second floor being approximately 666 square feet) and demolition of the existing 520 square foot attached garage. The project also includes construction of a new 3,187 square foot, two-story single-family dwelling (with the first floor being approximately 1,935 square feet, the second floor being approximately 1,252 square feet), with an 881 square foot basement, a new detached garage of approximately 680 square feet, a new detached pool cabaña of approximately 570 square feet and a new pool. The project would require approximately 500 cubic yards of cut, 100 cubic yards of fill, and 400 cubic yards of export. The parcel will continue to be served by the Montecito Water District, the Montecito Fire Protection District, the Santa Barbara County Sheriff's Department, and Montecito Sanitary District. Access to the site will continue to be provided off of Channel Drive. The project is a 0.44-acre parcel zoned 1-E-1 and shown as Assessor's Parcel Number 009-352-019, located at 1154 Channel Drive in the Coastal Zone of the Montecito Community Plan area, First Supervisorial District, Santa Barbara County, California.

Background:

The proposed project, Case No. 14CDH-00000-00014, is subject to review by the Montecito Board of Architectural Review (MBAR). The project was taken before the MBAR six times over the course of eight months. Throughout the design review process, the MBAR evaluated the proposed project and also heard concerns from neighboring property owners and their representatives related to the overall size, bulk, scale, and massing of the proposed development at the site, as well as potential impacts to public views of the mountains from Channel Drive. During this period, multiple design revisions were made to the proposed project. At its December 15, 2014 hearing, the MBAR concluded that their design concerns had been adequately addressed and suggestions effectively integrated into the project. After taking a straw poll, the MBAR members indicated that the project as designed and proposed was compatible with the neighborhood and instructed the applicant to return to the MBAR [for Preliminary approval] after review and approval by the Montecito Planning Commission (MPC). Complete MBAR Approved Minutes from the six hearings are included as Attachment D to the MPC staff report (see Exhibit 4).

The project was taken before the MPC for the first time on May 20, 2015. At this hearing, the project received numerous unfavorable comments from the Commissioners that were centered largely on size, bulk and scale, especially as it related to the second story element. The project was continued indefinitely to allow the applicant time to redesign the project. The applicant was directed to take the comments and direction from the Commissioners into consideration and return to the MBAR with those revisions for further design review and comment before returning again to the MPC. A revised project was taken to the MBAR on October 12, 2015, where it received majority support from the members (see Exhibit 5). On January 20, 2016, the project returned to the MPC for further review. At this hearing, the MPC voted 3-2 to conceptually deny the project and continued the project to the hearing date of February 17, 2016, with direction to staff to draft findings for denial. At the request of the applicant, the February hearing for the project was continued to the hearing date of March 23, 2016 to allow the applicant's design team additional time to consider further changes to the project in an effort to avoid denial of the project by the MPC. On March 23, 2016, the final revised project returned to the MPC for further review, and by a vote of 3-2, the MPC denied the project. The denial was based largely on the MPC's concern for the near doubling of square footage on the second story (from 666 square feet to 1,252 square feet) and its effect on mountain views, privacy, and neighborhood compatibility, and to a

lesser degree on the extent of window glazing and its effect on light pollution, privacy, and preservation of the semi-rural residential character of the community. On March 20, 2016, the applicant (Olsten Montecito Trust) submitted a timely appeal of the MPC's decision and the project is now before the Board for *de novo* review and decision.

The specific findings for denial of the final project design presented to the MPC are included as an attachment within Exhibit 7 to this Board Letter. Since the MPC denial, no additional changes have occurred to the project and findings for denial are provided for the Board's *de novo* review as part of this Board Agenda Letter (see Exhibit 1).

Appeal Issues:

The appellant has submitted a statement of grounds for the appeal along with their appeal application. The statement identifies and explains nine specific issue areas that constitute the grounds for their appeal (see Exhibit 3). Those issues have been summarized below and are followed by staff's response.

Appeal Issue #1: Appellant claims that the evidence in the record does not support the finding for denial that the amount of window glazing would conflict with Policy LU-M-2.2 of the Montecito Community Plan.

Staff Response: Policy LU-M-2.2 of the Montecito Community Plan states that "[l]ighting of structures, roads, and properties shall be minimized to protect privacy, and to maintain the semi-rural, residential character of the community." With the prominence and visibility of the proposed two-story residence along Channel Drive, the Montecito Planning Commission concluded that the amount of window glazing on the project and the associated lantern effect that would result, especially on the second story, would not be minimized in accordance with this policy. The Commission was not satisfied with the design solutions presented by the applicant to address this issue, including the use of shutters and smaller window openings, and urged the applicant to significantly reduce the second story element to further reduce the extent of glazing and be closer in size to what currently exists. The applicant was not prepared to follow the MPC's suggestion, which resulted in the denial of the project.

Appeal Issue #2: Appellant claims that the evidence in the record does not support the finding for denial that the increased size, bulk, scale, and orientation of the proposed second story as compared to the current residence would increase the visibility of the residence from Channel Drive in conflict with Policy LU-M-2.1 and Policy VIS-M-1.3 of the Montecito Community Plan.

Staff Response: Policy LU-M-2.1 of the Montecito Community Plan states that "[n]ew structures shall be designed, sited, graded, and landscaped in a manner which minimizes their visibility from public roads." Policy VIS-M-1.3 states that "[d]evelopment of property should minimize impacts to open space views as seen from public roads and viewpoints." While the peak height of the proposed new residence would be slightly lower than the existing residence and the existing would be chimneys removed, the second story massing would nearly double from the current 666 square feet to 1,252 square feet. As a result, the MPC found that the proposed project would be more visible and have a greater likelihood of degrading open space views of the Santa Ynez Mountains as seen from Channel Drive as compared to the existing residence. Based on this, the Commission adopted the findings for denial and denied the project.

Appeal Issue #3: Appellant claims that the evidence in the record does not support the finding for denial that the increased size and configuration of the second story element will significantly obstruct public views of the Santa Ynez Mountains as seen from Channel Drive.

Staff Response: As discussed above, the second story massing of the proposed new residence would nearly double from the current 666 square feet to 1,252 square feet. Thus, while the overall height of the new residence would be slightly reduced relative to the current residence, the increase in second story massing as compared to the existing residence would be more visible and have the potential to obstruct public views of the Santa Ynez Mountains as seen from certain vantage points along Channel Drive. Potential impacts to mountain views can be seen in the photo-simulations prepared by the applicant and generated from the actual project plans and provided to the Commissioners as a hard copy for the hearing (included as Exhibit 8 to this Board Letter). Additionally, although unclear as to their accuracy, the opponents to the project generated additional simulations that they presented to the Commission depicting potential impacts to mountain and private views, which are included in Exhibit 9 to this Board Letter.

Appeal Issue #4: Appellant claims that the evidence in the record does not support Finding for Denial 2.3, regarding window glazing and view impacts, citing similar points as were made under Appeal Issue #1 and #2 above.

Staff Response: See responses to Appeal Issue #1 and #2 above, as the same arguments apply.

Appeal Issue #5: Appellant asserts that the findings for denial regarding the impacts of the project on mountain views are not supported by the conclusions during the hearings of a majority of the members of the MPC.

Staff Response: The appellant asserts that the findings for denial do not accurately reflect the position of a majority of the Commissioners in terms of the impacts of the project on public views of the Santa Ynez Mountains. Regardless of individual comments made during deliberations at each of the hearings, the MPC ultimately voted 3 to 2 to adopt the Findings for Denial, inclusive of the statements regarding impacts to mountain views from the increase in the second story element. As such, the Findings accurately reflect the majority decision of the Commission.

Appeal Issue #6: Appellant asserts that the motivation for MPC denial of the project was a conclusion that no two-story residences should be allowed on Channel Drive or that existing second stories cannot be expanded, which is improper based on current zoning and past actions by the Commission.

Staff Response: The appellant asserts that since a second story is allowable by ordinance and because other homes along Channel Drive have approved second stories, the MPC improperly denied the project on a basis of its second story element. While the zoning ordinance does allow second stories and residences up to a height of 25 feet, there is no entitlement to those allowances. Every project is considered on its own merits based upon site specific characteristics which can result in a determination that achieving the maximum allowances under applicable zoning is not suitable or proper for a particular site. So while it is true that the project meets ordinance requirements and other homes along Channel Drive have been approved with second stories, such factors do not mandate approval of a second story of a certain size on the subject parcel. The MPC clearly indicated that due to the visibility of the residence from Channel Drive, that a smaller second story closer in size to what exists currently would be more appropriate for the site and urged the applicant to modify the design accordingly. The applicant elected to not make the requested change and as a result the MPC denied the project.

Appeal Issue #7: Appellant asserts that the project meets all applicable zoning ordinance requirements and is consistent with all applicable Montecito Community Plan policies and therefore should be approved.

Staff Response: Except as provided in Exhibit 1, the project does meet all applicable ordinance requirements, as indicated in the various staff reports and memoranda prepared for this project and included as exhibits to this Board Letter. However, as described in the Findings for Denial adopted by the MPC (Exhibit 7) and discussed above in response to Appeal Issue #1 and #2, the MPC concluded that the project was inconsistent with several policies of the Montecito Community Plan. As a result, the MPC denied the project with a 3 to 2 vote.

Appeal Issue #8: Appellant states that the Montecito Board of Architectural Review and Planning and Development staff both recommended approval of the project to the MPC and provided evidence to support approval.

Staff Response: The project was reviewed by the MBAR six times over the course of eight months prior to being presented to the MPC (see Attachment D of Exhibit 4 of this Board Letter). Additionally, on October 12, 2015 the project went to the MBAR one additional time at the request of the Commission in order to give the MBAR an opportunity to review significant design changes that had occurred to the project since their last review on December 15, 2014 (see Exhibit 5). P&D staff's analysis of the original project is included within Section 6 of Exhibit 4 and the analysis for the revised project design is included within Exhibit 5, both incorporated herein by reference. Although both P&D staff and the MBAR provided the MPC with recommendations for approval, the decision-maker with review authority for the requested Coastal Development Permit was the Montecito Planning Commission, pursuant to Section 35-169.4.2 of the Article II Coastal Zoning Ordinance and Chapter 2, Section 2-29 of the Santa Barbara County Code. The proposed project was considered at three public hearings before the MPC with changes made to the project before each of the hearings. Each revised version of the project was presented at these hearings by the applicant and then analyzed, discussed, and ultimately given further direction by the MPC to revise the proposed design, or risk being denied. At the final hearing, rather than making the two changes recommended by the MPC to significantly reduce the amount of window glazing and reduce the size of the second story to no greater than what is currently there, respectively, the applicant opted to make what the MPC concluded were insufficient changes. As is their authority, the MPC disagreed with P&D staff's and the MBAR's recommendations and denied the project for the reasons discussed in the responses above.

Appeal Issue #9: Appellant asserts that the majority of Commissioners favored the proposed project over the existing residence and that their reasons for denial of the project are not reflected in the Findings for Denial.

Staff Response: The majority of the Commissioners were clear in their position that they could not support the near doubling of the size of the second story as compared to the existing residence, despite any perception of the architecture as being an improvement over the existing residence. Along with the window glazing as a secondary concern, the size, bulk, and scale of the second story element was the key issue in the MPC's denial of the project by a 3 to 2 vote, as discussed in response to the appeal issues above.

Fiscal and Facilities Impacts:

Budgeted: Yes

No appeal fee was required. Total costs for processing the appeal are approximately \$5,380.00 (28 hours). Staff work to process the appeal is funded in the Planning and Development Permitting Budget Program, as shown on page D-289 of the adopted 2015-2017 FY budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on July 19, 2016. The notice shall appear in the Santa Barbara News-Press. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the notice are included with this Board Letter. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention: David Villalobos.

Exhibits:

1. Findings for Denial
2. Environmental Document – Notice of Exemption
3. Olsten Montecito Trust Appeal Application, with Statement of Grounds for Appeal
4. Montecito Planning Commission Staff Report, dated April 30, 2015
5. Montecito Planning Commission Staff Memorandum, dated December 17, 2015
6. Montecito Planning Commission Staff Memorandum, dated March 3, 2016
7. Montecito Planning Commission Action Letter, dated March 29, 2016
8. Applicant/Appellant Photo-Simulations of Proposed Project
9. Opposing Neighbors' Presentation to MPC, dated March 23, 2016

Authored by:

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