

August 26, 2011

Jennifer Foster  
P.O. Box 591  
Summerland, CA 93067

MONTECITO PLANNING COMMISSION  
HEARING OF AUGUST 24, 2011

**RE: *Van Vliet Addition; 11CDH-00000-00008***

Hearing on the request of Jennifer Foster, agent for the owners, Alan and Kathryn Van Vliet, to consider Case No. 11CDH-00000-00008, [application filed on 2/15/11] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned 1-E-1 to allow a 29 square foot first floor residential addition, 422 square foot second floor residential addition, 130 square foot garage addition, demolition of approximately 83 square feet of the existing residence, demolition and rebuild of a pool, construction of a new wall and entry gates, and approximately 72 cubic yards of cut and 26 cubic yards of fill; and to determine that the project is exempt pursuant to Section 15301(e) of the State Guidelines for Implementation of the California Environmental Quality Act. The application involves AP No. 007-380-021, located at 1717 Fernald Point Lane, in the Montecito area, First Supervisorial District.

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Dear Ms. Foster:

At the Montecito Planning Commission hearing of August 24, 2011, Commissioner Eidelson moved, seconded by Commissioner Gottsdanker and carried by a vote of 4 to 0 (Phillips absent) to:

1. Make the required findings for approval of the project specified in Attachment A of the staff report, dated August 5, 2011, including CEQA findings, as amended in the staff memorandum dated August 23, 2011 and at hearing on August 24, 2011.
2. Determine that the project is exempt from CEQA pursuant to Section 15301(e) of the State Guidelines for Implementation of the California Environmental Quality Act (Attachment C of the staff report, dated August 5, 2011).
3. Approve the Coastal Development Permit subject to the conditions included as Attachment B of the staff report, dated August 5, 2011, as amended in the staff memorandum dated August 23, 2011 and at the hearing of August 24, 2011.

#### **REVISIONS TO THE FINDINGS**

*Finding 2.2.4 is amended as follows:*

- 2.2.4 The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.**

The proposed project would be in compliance with this finding and with Coastal Act Policy 30251, which states, "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."

The subject property does not abut the sandy beach because there is another parcel (1711 Fernald Point Lane) located between the subject parcel and the beach. Therefore, the project would not have the potential to block views along the beach. Currently, there are no significant public views to the beach from Fernald Point Lane through the subject property or adjacent properties as a result of dense vegetation and natural topography. This condition would remain unchanged and therefore the project would not result in the obstruction of public views from any public road or public recreation area to the coast. The project would not result in significant obstruction of views from the beach to the mountains. The proposed second story addition would be less than 23 feet in height and would have no potential to breach the skyline of the mountains beyond. Due to the existing topography of the site, distance from the public beach to the proposed addition (approximately 518 feet) and existing vegetation, any portion of the second story addition visible from the beach would be minimal and of insignificant impact. The proposed project is located on an existing developed and relatively flat lot and would not result in the alteration of natural landforms or topography. As discussed above, the development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast. Therefore this finding can be made.

*Finding 2.2.5 is amended as follows:*

**2.2.5 The development is compatible with the established physical scale of the area.**

The surrounding neighborhood is comprised of both one and two story residences. Most residences are minimally visible from Fernald Point Lane due to existing dense vegetation, walls and entry gates. The proposed project would include a moderate expansion of the residence including a 422 square foot second floor residential addition and ~~422~~ 159 square feet of first floor additions. These additions would be minimally visible from Fernald Point Lane, consistent with surrounding properties. The proposed entry gates, wall and dense screening vegetation would be typical of residences in the Fernald Point Lane area. Following the proposed additions, the residence would be 23% over the recommended Floor Area Ratio. However, analysis of the surrounding neighborhood indicates that the neighborhood as whole is approximately 55% over the recommended Floor Area Ratio. Therefore, the square footage of the residence following the proposed additions would be compatible with the surrounding neighborhood. The proposed architectural style of the residence would be compatible with the existing residence and with the eclectic beach cottage style of the surrounding area. The project was reviewed by the Montecito Board of Architectural Review (MBAR), who found that the proposed increase in height due to the second story addition was "fairly modest." The MBAR also indicated that they were "comfortable with mass, scale and height" of the structure. Therefore, the proposed development will be compatible with the established physical scale of the area, and this finding can be made.

## REVISIONS TO THE CONDITIONS

*Condition no 3 (Special-Construction Parking Plan) is amended as follows:*

- 3. Special-Construction Parking Plan.** Prior to Coastal Development Permit issuance the applicant shall prepare a Construction Parking Plan.

**PLAN REQUIREMENTS:** The Construction Parking Plan shall include a construction timeline that indicates each phase of work to completed, the location or construction parking during each phase of construction, the number of vehicles required for each construction phase and the estimated timeframe for each phase of construction. The timeline shall be accompanied by a site plan that graphically illustrates the location of each parking area. Construction parking shall occur on-site to the maximum extent feasible. If construction parking cannot be accommodated during any phase of construction, the parking plan shall note the location of the proposed offsite parking. Offsite parking locations shall be reviewed and approved by P&D staff. Offsite parking shall not impede the flow of traffic along Fernald Point Lane and shall not impede access to the site or through the site to the neighboring property at 1711 Fernald Point Lane. Traffic flaggers may be required if determined necessary by P&D staff upon review of the Parking Plan.

**TIMING:** The Construction Parking Plan shall be reviewed and approved prior to Coastal Development Permit issuance. Construction personnel shall comply with the requirements of the Parking Plan throughout all phases of construction.

**MONITORING:** P&D planner shall review and approve the Construction Parking Plan prior to permit issuance. Building inspectors shall spot check and respond to complaints.

*The attached findings and conditions reflect the Montecito Planning Commission's actions of August 24, 2011.*

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 Tuesday, September 6, 2011 at 5:00 p.m.**

**Final action by the County on this project may be appealed to the Coastal Commission by the applicant, an aggrieved person, as defined above, or any two members of the Coastal Commission within the 10 working days following the date the County's Notice of Final Action is received by the Coastal Commission.**

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Sincerely,

Dianne M. Black  
Secretary to the Montecito Planning Commission

cc: Case File: 11CDH-00000-00008  
Montecito Planning Commission File  
Shana Gray, California Coastal Commission, 89 S. California Street, Suite 200, Ventura, CA 93001  
Montecito Association, P.O. Box 5278, Montecito, CA 93150  
Owner: Alan and Kathryn Van Vliet, 1717 Fernald Point Lane, Santa Barbara, CA 93108  
County Chief Appraiser  
County Surveyor  
Fire Department  
Flood Control  
Park Department  
Public Works  
Environmental Health Services  
APCD  
Supervisor Carbajal, First District  
Commissioner Eidelson  
Commissioner Burrows  
Commissioner Phillips  
Commissioner Overall  
Commissioner Gottsdanker  
Rachel Van Mullem, Senior Deputy County Counsel  
Nicole Mashore, Planner

**Attachments:      Attachment A – Findings**  
**Attachment B – Conditions of Approval**

DMB/dmv

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## ATTACHMENT A: FINDINGS

### 1.0 CEQA FINDINGS

The Montecito Planning Commission finds that the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(e). Please see Attachment-C, Notice of Exemption.

### 2.0 COASTAL DEVELOPMENT PERMIT FINDINGS

**2.1 Finding required for all Coastal Development Permits. In compliance with Section 35-60.5 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit the review authority shall first find, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.**

The subject property is currently, and would continue to be, served by the Montecito Water District, Montecito Sanitary District and Montecito Fire District. Access is provided off of Fernald Point Lane. Additionally, the Montecito Water District issued a Certificate of Water Service Availability acknowledging existing service to the site and acceptance of the proposed site and water usage changes. Therefore, this finding can be made.

**2.2 Findings required for Coastal Development Permit applications subject to Section 35-169.4.2. In compliance with Section 35-169.5.2 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.2 the review authority shall first make all of the following findings:**

**2.2.1 The proposed development conforms:**

- a. **To the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan;**
- b. **With the applicable provisions of this Article or the project falls within the limited exceptions allowed in compliance with Section 35-161 (Nonconforming Use of Land, Buildings and Structures).**

As discussed in Sections 6.2 and 6.3 of this Staff Report dated August 5, 2011, and incorporated herein by reference, the proposed project is consistent with all applicable policies of the County Comprehensive Plan, including the Montecito Community Plan and Coastal Land Use Plan, and with all requirements of the Article II Coastal Zoning Ordinance. Therefore, this finding can be made.

**2.2.2 The proposed development is located on a legally created lot.**

The subject property is shown as Lot B on Record of Survey Book 69, Page 57, dated May 1965. Therefore this finding can be made.

**2.2.3 The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).**

As discussed in Sections 6.2 and 6.3 of the staff report, and incorporated herein by reference, the property would be in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of the Article II Coastal Zoning Ordinance. The existing property is legal-nonconforming as to size. There are no zoning violations on the subject property. Therefore this finding can be made.

**2.2.4 The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.**

The proposed project would be in compliance with this finding and with Coastal Act Policy 30251, which states, *"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."* The subject property does not abut the sandy beach because there is another parcel (1711 Fernald Point Lane) located between the subject parcel and the beach. Therefore, the project would not have the potential to block views along the beach. Currently, there are no significant public views to the beach from Fernald Point Lane through the subject property or adjacent properties as a result of dense vegetation and natural topography. This condition would remain unchanged and therefore the project would not result in the obstruction of public views from any public road or public recreation area to the coast. The project would not result in significant obstruction of views from the beach to the mountains. The proposed second story addition would be less than 23 feet in height and would have no potential to breach the skyline of the mountains beyond. Due to the existing topography of the site, distance from the public beach to the proposed addition (approximately 518 feet) and existing vegetation, any portion of the second story addition visible from the beach would be minimal and of insignificant impact. The proposed project is located on an existing developed and relatively flat lot and would not result in the alteration of natural landforms or topography. As discussed above, the development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast. Therefore this finding can be made.

**2.2.5 The development is compatible with the established physical scale of the area.**

The surrounding neighborhood is comprised of both one and two story residences. Most residences are minimally visible from Fernald Point Lane due to existing dense vegetation, walls and entry gates. The proposed project would include a moderate expansion of the residence including a 422 square foot second floor residential addition and 159 square feet of first floor additions. These additions would be minimally visible from Fernald Point Lane, consistent with surrounding properties. The proposed entry gates, wall and dense screening vegetation would be typical of residences in the Fernald Point Lane area. Following the proposed additions, the residence would be 23% over the recommended Floor Area Ratio. However, analysis of the surrounding neighborhood indicates that the neighborhood as whole is approximately 55% over the recommended Floor Area Ratio. Therefore, the square footage of the residence following the proposed additions would be compatible with the surrounding neighborhood. The proposed architectural style of the residence would be compatible with the existing residence and with the eclectic beach cottage style of the surrounding area. The project was reviewed by

the Montecito Board of Architectural Review (MBAR), who found that the proposed increase in height due to the second story addition was "fairly modest." The MBAR also indicated that they were "comfortable with mass, scale and height" of the structure. Therefore, the proposed development will be compatible with the established physical scale of the area, and this finding can be made.

**2.2.6 The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.**

The proposed project would in no way interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization. Public beach access would continue to be available via Posilipo Lane, located approximately .2 miles west of the subject property. Therefore this finding can be made.

**2.3 In compliance with Section 35-215 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit on sites within the Montecito Community Plan area the review authority shall first find for projects subject to discretionary review that the development will not adversely impact recreational facilities and uses.**

The proposed project would in no way interfere with the public's right of access to the sea (as discussed in Finding 2.2.6 above) and would not interfere with any trails or other recreational areas. Nearby public beach access would continue to be available via Posilipo Lane, located approximately .2 miles west of the subject property. Therefore this finding can be made.

**2.4 In addition to the findings that are required for approval of a development project (as development is defined in the Santa Barbara County Coastal Plan), as identified in each section of Division 11 - Permit Procedures of Article II, a finding shall also be made that the project meets all the applicable development standards included in the Montecito Community Plan of the Coastal Land Use Plan.**

As discussed in Section 6.2 of this Staff Report, dated August 5, 2011, and incorporated herein by reference, the proposed project is consistent with all applicable policies of the County Comprehensive Plan, including the Montecito Community Plan and Coastal Land Use Plan. Therefore, this finding can be made.

## ATTACHMENT B: CONDITIONS OF APPROVAL

1. **Proj Des-01 Project Description.** This permit is based upon and limited to compliance with the project description, the hearing exhibits dated August 24, 2011, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

The proposed project is a Coastal Development Permit to allow three areas of first floor residential additions totaling 29 square feet, a 422 square foot second floor residential addition, two areas of garage additions totaling 130 square feet, demolition of approximately 83 square feet of the existing residence, demolition and reconstruction of a pool, construction of a new wall and entry gates, installation of new landscape and hardscape materials and approximately 72 cubic yards of cut and 26 cubic yards of fill. No trees or native vegetation would be removed. The application involves AP No. 007-380-021, located at 1717 Fernald Point Lane, in the Montecito area, First Supervisorial District.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

2. **Proj Des-02 Project Conformity.** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.
3. **Special-Construction Parking Plan.** Prior to Coastal Development Permit issuance the applicant shall prepare a Construction Parking Plan.

**PLAN REQUIREMENTS:** The Construction Parking Plan shall include a construction timeline that indicates each phase of work to completed, the location or construction parking during each phase of construction, the number of vehicles required for each construction phase and the estimated timeframe for each phase of construction. The timeline shall be accompanied by a site plan that graphically illustrates the location of each parking area. Construction parking shall occur on-site to the maximum extent feasible. If construction parking cannot be accommodated during any phase of construction, the parking plan shall note the location of the proposed offsite parking. Offsite parking locations shall be reviewed and approved by P&D staff. Offsite parking shall not impede the flow of traffic along Fernald Point Lane and shall not impede access to the site or through the site to the neighboring property at 1711 Fernald Point Lane. Traffic flaggers may be required if determined necessary by P&D staff upon review of the Parking Plan.

**TIMING:** The Construction Parking Plan shall be reviewed and approved prior to Coastal Development Permit issuance. Construction personnel shall comply with the requirements of the Parking Plan throughout all phases of construction.

**MONITORING:** P&D planner shall review and approve the Construction Parking Plan prior to permit issuance. Building inspectors shall spot check and respond to complaints.

4. **Noise-02 Construction Hours.** The Owner /Applicant, all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on weekends or State holidays. Non-noise generating construction activities such as interior plumbing, electrical, drywall and painting (depending on compressor noise levels) are not subject to these restrictions.

**PLAN REQUIREMENTS:** The Owner/Applicant shall provide and post 2 signs stating these restrictions at construction site entries.

**TIMING:** Signs shall be posted prior to commencement of construction and maintained throughout construction.

**MONITORING:** The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. Building inspectors shall spot check and respond to complaints.

5. **WatConv-05 Equipment Washout-Construction.** The Owner/Applicant shall designate a washout area(s) for the washing of concrete trucks, paint, equipment, or similar activities to prevent wash water from discharging to the storm drains, street, drainage ditches, creeks, or wetlands. Note that polluted water and materials shall be contained in this area and removed from the site on a regular basis. The area shall be located at least 100 feet from any storm drain, waterbody or sensitive biological resources.

**PLAN REQUIREMENTS:** The Owner/Applicant shall designate the P&D approved location on all building plans.

**TIMING:** The Owner/Applicant shall install the area prior to commencement of construction.

**MONITORING:** Building and Safety staff shall ensure compliance throughout construction.

6. **Aest-06 Building Materials.** Natural building materials and colors shall be compatible with surrounding environment and neighborhood (materials shall be non-reflective).

**PLAN REQUIREMENT:** Materials shall be denoted on building plans.

**TIMING:** Structures shall be painted prior to Final Building Inspection Clearance.

**MONITORING:** Building and Safety staff shall inspect prior to Final Building Inspection Clearance.

7. **Aest-10 Lighting.** The Owner/Applicant shall ensure any exterior night lighting installed on the project site is of low intensity, low glare design, minimum height, and shall be hooded to direct light downward onto the subject lot and prevent spill-over onto adjacent lots. The Owner/Applicant shall install timers or otherwise ensure lights are dimmed after 10 p.m.

**PLAN REQUIREMENTS:** The Owner/Applicant shall include these items on design and construction plans, including electrical details.

**TIMING:** Lighting shall be installed in compliance with this measure prior to Final Building Inspection Clearance.

**MONITORING:** P&D planner shall review lighting cut sheets for compliance with this measure prior to permit issuance.

8. **SolidW-03 Solid Waste-Construction Site.** The Owner/Applicant shall provide an adequate number of covered receptacles for construction and employee trash to prevent trash & debris from blowing offsite, shall ensure waste is picked up weekly or more frequently as needed, and shall ensure site is free of trash and debris when construction is complete.

**PLAN REQUIREMENTS:** All plans shall contain notes that the site is to remain trash-free throughout construction.

**TIMING:** Prior to building permit issuance, the Owner/Applicant shall designate and provide P&D with the name and phone number of a contact person(s) responsible for trash prevention and site clean-up. Additional covered receptacles shall be provided as determined necessary by P&D.

**MONITORING:** Building and safety staff shall inspect periodically throughout grading and construction activities and prior to Final Building Inspection Clearance to ensure the construction site is free of all trash and debris.

9. **Rules-10 CDP Expiration-No CUP or DVP.** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Montecito Planning Commission. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.

10. **Rules-29 Other Dept Conditions.** Compliance with Departmental/Division letters required as follows:

1. Air Pollution Control District dated March 4, 2011
2. Montecito Water District with date of application February 15, 2011

11. **Rules-33 Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this project. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or

proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

12. **Rules-34 Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought in the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the review authority and no approval shall be issued unless substitute feasible conditions/measures are imposed.