



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 & Development
Department No.: 053
For Agenda Of: October 20, 2009
Placement: Departmental
Estimated Time: November 3, 2009
(60 min.: 5 min. staff presentation)
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell, Ph.D., Director, 568-2085
Director(s):
Contact Info: Dave Ward, Deputy Director, 568-2520
SUBJECT: **Set Hearing for the Sipple Appeal of the Stone Landscaping**

County Counsel Concurrence

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: N/A

Recommended Actions:

Set a hearing for November 3, 2009 to consider Case No. 09APL-00000-00025, the Sipple appeal of the Montecito Planning Commission's July 28, 2009 denial of Case Nos. 09APL-00000-00013 & 09APL-00000-00014, located at 660 Stonehouse Lane (APN 155-060-028), Montecito Area in the First Supervisorial District:

1. Deny the appeal, Case No. 09APL-00000-00025 thereby upholding the MPC's denial of the Sipple appeals, case numbers 09APL-00000-00013 & 09APL-00000-00014, as shown in the July 28, 2009 MPC Action Letter, included as Attachment A to this Board Letter;
2. Accept the CEQA Exemption, included as Attachment B to this Board Letter;
3. Grant *de novo* approval of Case No. 06BAR-00000-00182, upholding the MBAR decision of approval; and
4. Grant *de novo* approval of Case No. 09LUP-00000-00166, as revised by the MPC and subject to the conditions of approval in the originally-approved Land Use Permit, and included as Attachment C to this Board Letter.

Summary Text:

The appellants, Mr. and Mrs. Donald Sipple, are appealing the Montecito Planning Commission's (MPC) decision to deny Case Nos. 09APL-00000-00013 and 09APL-00000-00014. The appellants previously appealed both the Montecito Board of Architectural Review's (MBAR) April 20, 2009 decision to grant revised final approval of Case No. 06BAR-00000-00182, "Revised Landscape Screening for the Stone SFD and ARSU", and P&D's subsequent April 24, 2009 approval of Land Use Permit (LUP) 09LUP-00000-00166, "Stone Additional Landscaping", authorizing installation of the plant materials, citing the same appeal grounds stated for the MPC, now recited before the Board.

Background:

Following is a review of the permitting background on the Stone's lot:

- **06LUP-00000-00617** permitted the Stone's single family dwelling (SFD) and attached residential second unit (ARSU) with annotation on the stamped approved plans dated April 27, 2007 that existing avocados trees were to remain along the western property line of the lot, including Condition #1, which states that deviations may require approved changes to the permit and/or further environmental review and any deviations without the above described approval will constitute a violation of permit approval.
- **08ZEV-00000-00246** pertains to unpermitted removal of an unknown number of mature avocado trees. The applications on appeal before the MPC and now the Board constitute the applicant's attempt to resolve this zoning violation;
- **07LUP-00000-00453** is an active application awaiting approval pending resolution of the zoning violation and appeal before the Board. This project was recently revised on April 24, 2009 to relocate the proposed pool from the south west corner of the lot to the northwest corner of the lot, entirely within the development envelope, and to eliminate the previously proposed cabana. Additionally, the associated MBAR case number 07BAR-00000-00166 received Preliminary/Final approval on August 10, 2009;
- **08RMM-00000-00005** was a request to allow grading outside the building envelope designated on the subject lot as a condition of TPM 14,496 (Cross Creek Ranch II). This application was denied by the MPC on March 25, 2009.

Appellant Issue and Staff Response:

The appellants, Mr. & Mrs. Donald Sipple, submitted a letter (included as Attachment D) along with their application appealing the July 28, 2009 MPC denial of case numbers 09BAR-00000-00013 & 09APL-00000-00014 and included a number of points as reasons for their appeal. This appeal letter is nearly identical to the letter submitted by the Sipples in support of their appeal to the MPC. This previous letter is also included as Attachment D within the attached MPC Staff Report. P&D staff offers the same response to the appeal issues as that presented in Section 4.2 of the MPC Staff Report, as none of the underlying facts in the case have changed regarding any of these issues.

The appellant's points contained within the MPC Staff Report (Attachment E) can be summarized as follows:

- **Points #1 - #3 and #6** refer to policy issues which are not in dispute. In fact, these issues are the subject of the zoning violation case P&D opened against the Stone property.
- **Points #4 - #5 and #7 - #11** refer to procedural issues that did not produce an outcome that the appellant considers acceptable. Staff continues to support the findings that allowed the previous approvals for the installation of additional landscaping. Each approved landscape plan has been consistent with the applicable policies and procedures that are applied consistently, and in proper context, to every proposed project before the MBAR, MPC and P&D. The MPC, acting as the MBAR, heard the project *de novo* and revised the project description in response to the specific additional information and the public testimony provided to them at their July 28, 2009 hearing.

The appellant's letter raises one new issue specific to the specific MPC-approved landscape plan being appealed to the Board. This issue is related specifically to acceptable plant material. Specifically, the appellant states that they have no assurance that the approved landscape plan utilizing Podocarpus trees will restore adequate screening.

Staff Response: The MPC-approved landscape plan required the planting of a total of nine 16'-17' tall Podocarpus trees that are at least 5'-6' wide regardless of box-size. The exact location of these trees would be determined on-site as the trees were to be planted in an undulating pattern so as to optically-overlap and maximize the effectiveness of screening, as viewed from the Sipple property. The Podocarpus are required to be planted within 30 days of the effective date (issuance) of the LUP, irrigated pursuant to the recommendations of County-qualified arborist, Duke McPherson, and must be maintained in conformance with the approved tree protection plan. Standard project conditions would require strict conformance with the MBAR-approved landscape plan and the project description of the approved LUP.

Conclusion:

The project currently before the Board on appeal was originally reviewed and approved by the Montecito Board of Architectural Review and the Planning Department. The Montecito Planning Commission denied the appeals and approved a revised project, subject to additional landscape measures designed to resolve all of the issues addressed in the current appeal before the Board. Based on all the evidence in the record, the project can be found compliant with all applicable development requirements of the Montecito LUDC and policies within the County Comprehensive Plan, including the Montecito Community Plan.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

The costs for processing appeals are typically provided through a fixed appeal fee and funds in P&D's adopted budget. In regards to this appeal, the appellant paid an appeal fee of \$500.00. P&D will absorb the costs beyond that fee, estimated at \$5,602.00. These funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-308 of the adopted 2009/2010 fiscal year budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on November 3, 2009. The notice shall appear in a paper of general circulation such as the Santa Barbara News Press. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the mailed notice are attached. A Minute Order of the hearing and copy of the notice and proof of publication shall be returned to P&D, Attention: David Villalobos, Hearing Support.

Planning & Development will prepare all final action letters and notify all interested parties of the Board of Supervisors final action.

Attachments:

- A. MPC Action Letter, dated July 28, 2009.
- B. Environmental Document: CEQA Exemption
- C. Approved Land Use Permit, 09LUP-00000-00166 (with Conditions of Approval), dated April 24, 2009.
- D. Appellant Letter, titled Attachment to Sipple Appeal of Land Use Permit Issuance for Stone Revised Landscape Plan, included in Appeal application dated April 29, 2009.
- E. MPC Staff Report, dated May 27, 2009.

Prepared by:

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