



County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Director of Development Services

Derek Johnson, Director of Long Range Planning

July 28, 2009

Donald Sipple
646 Romero Canyon Road
Santa Barbara, CA 93108

MONTECITO PLANNING COMMISSION
SPECIAL HEARING OF JULY 22, 2009

RE: *Appeal of Stone Revised Landscaping; 09APL-00000-00013, 09APL-00000-00014*

Hearing on the request of Mr. and Mrs. Donald Sipple to consider Case Nos. 09APL-00000-00013 and 09APL-00000-00014 [appeals filed on April 29, 2009] to appeal the Montecito Board of Architectural Review's approval of Case No. 06BAR-00000-00182, and to appeal the Director's decision to approve Case No. 09LUP-00000-00166, respectively; in compliance with Chapter 35.492 of the Montecito Land Use and Development Code, on property located in the 2-E-1 zone district; and to accept the Exemption for disapproval pursuant to Section 15270(b) of the State Guidelines for Implementation of the California Environmental Quality Act. The application involves AP No. 155-060-028, located at 660 Stonehouse Lane, in the Montecito area, First Supervisorial District.

Dear Mr. & Mrs. Sipple:

At the Montecito Planning Commission hearing of July 22, 2009, Commissioner Overall moved, seconded by Commissioner Gottsdanker and carried by a vote of 5-0 to:

1. Deny the appeal, Case No. 09APL-00000-00013, thereby upholding the Montecito Board of Architectural Review's revised final approval of 06BAR-0000-00182;
2. Deny the appeal, Case No. 09APL-00000-00014, thereby upholding the Planning and Development's approval of 09LUP-00000-00166;
3. Adopt the required findings for revised final approval of 06BAR-00000-00182 and for approval of Land Use Permit No. 09LUP-00000-00166, included as Attachment A of the staff report, dated May 15, 2009 and as revised at the hearing of July 22, 2009;
4. Accept the exemption, included as Attachment B of the staff report, dated May 15, 2009 and as revised, pursuant to CEQA Section 15304; and
5. Grant *de novo* revised final approval of 06BAR-00000-000182 and *de novo* approval of Land Use Permit No. 09LUP-00000-00166, subject to the conditions included as Attachment C of the staff report, dated May 15, 2009 and as revised at the hearing of July 22, 2009.

Development Review
Building & Safety
Energy, Administration
123 E. Anapamu Street
Santa Barbara, CA 93101
Phone: (805) 568-2000
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Development Review
Building & Safety
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624 W. Foster Road
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REVISION TO FINDINGS

The CEQA Exemption was changed from Section 15270(a-b) to 15304(b):

1.0 CEQA FINDINGS

The project, ~~Case Nos. 09APL 00000 00013 and 09APL 00000 00014, can be found exempt from environmental review based upon Section 15270(a-b) of the California Environmental Quality Act (CEQA) Guidelines. Section 15270 exempts projects from further CEQA review if upon initial screening by the public agency the agency can determine that the project cannot be approved. Case No. 09LUP-00000-00166 can be found exempt from environmental review based upon Section 15304 [Minor Alterations to Land] of the California Environmental Quality Act (CEQA) guidelines. Section 15304(b) states that projects that consist of minor public or private alterations in the condition of land, water, and/or vegetation, including new gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping are exempt from the provisions of CEQA. Because the project constitutes new landscaping, the exemption is appropriate.~~

The MBAR Design Review Findings were changed to reflect the new project description:

3.0 MBAR DESIGN REVIEW FINDINGS

3.1. Design Review applications shall be approved or conditionally approved only if the Montecito Board of Architectural Review first makes all of the following findings:

- a. *Overall structure shapes, as well as parts of any structure (buildings, fences, screens, signs, towers, or walls) are in proportion to and in scale with other existing or permitted structures on the same site and in the area surrounding the property.*

No new structures are proposed as a component of the project before the Planning Commission. However, a boulder wall, up to approximately 4 5 feet in height and 140 feet in length, was approved for construction inside of and adjacent to the southwestern edge of the development envelope. The wall was found to be in proportion to and in scale with the other existing and permitted structures on the site and area surrounding the property. ~~This wall also raises the base height of the third layer of vegetation screening (3 additional avocado trees) to approximately 308.5 feet, in order to facilitate adequate screening. Therefore, this finding can be made.~~

- e. *There will be a harmonious relationship with existing and proposed adjoining developments, avoiding excessive variety and monotonous repetition, but allowing similarity of style, if warranted.*

At the MPC hearing of July 22, 2009, the Commission approved a new project description that included planting a total of 9 new Podocarpus trees to provided adequate screening between the Sipple and Stone properties in order to create a harmonious relationship between the two adjoining lots. As discussed above in Section 6.4 of this staff report, the approved project, now on appeal before the Commission, went to the MBAR on three separate occasions for conceptual review before it received preliminary approval on April 20, 2009 for revised final of only the landscape plan. The MBAR found that the additional landscaping (a new Pittosporum hedge and 6 new avocado trees) was harmonious with the existing development and landscaping in the area. Therefore, this finding can be made.

REVISION TO CONDITIONS OF APPROVAL

Condition of Approval No. 1, Project Description, was revised:

1. **Project Description.** This Land Use Permit is based upon and limited to compliance with the project description, the exhibits, and the conditions of approval set forth below. 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.

The project description is as follows:

The project is for a Land Use Permit to allow the installation of additional landscaping in the rear of the property to provide adequate screening to and from the neighboring properties. Additional landscaping is to include the following:

- ~~1) Increase the size of 7 Pittosporum plants to 15 gallon plants that are located outside of the Critical Root Zone (CRZ) of the existing oaks.~~
 - ~~2) Pittosporum shrubs planted within a CRZ of any oak shall be a 5 gallon size.~~
 - ~~3) Three or more additional 36" box avocado trees are to be planted on the upper bank, immediately inside the building envelope one at the southeast corner and two more visually spaced between the Pittosporum plantings (See notations provided by MBAR on Sheet L1, dated 4/13/09).~~
 - ~~4) Implement the irrigation recommendations of the arborist, outlined in the Duke McPherson letter, dated 3/11/09.~~
 - ~~5) Maintain consistency with the approved tree protection plan.~~
 - ~~6) Revise plan sheet notations by deleting note #s 2 and 6 and revising note #3, described in staff's memo (4/14/09) as follows:~~
 - ~~▪ Planting Note #2: deletion of the phrase "and landscape architect and owner to make final adjustments as necessary"~~
 - ~~▪ Planting Note #3: Add the Phrase "consistent with arborist direction"~~
 - ~~▪ Planting note #6: Delete~~
- a) Adopt the "Easton Plan #2" that proposes to plant 7 new Podocarpus trees that measure no less than 16-17 feet in height and are at least 5-6 feet in width regardless of box-size (36", 48" or 60" boxes).
 - b) The addition of 2 more Podocarpus trees to be planted north of and adjacent to the 7 trees from the Easton Plan #2 and of the same measurements of size as the 7 other trees.
 - c) The 9 total Podocarpus trees are to be planted no more than 9 feet apart (on center).
 - d) The exact location of the 9 new Podocarpus trees shall be situated so as to maximize the effectiveness of screening, as viewed from the Sipple yard and pool area, as the line of new trees curves between the critical root zones of existing trees, around the new dispersion pits located in the drainage swale and along the new boulder wall.
 - e) To the maximum extent feasible, the off-setting and undulation of the 9 new Podocarpus trees should create an optical overlapping effect at the widest areas of the trees as viewed from the Sipple property.
 - f) All 9 Podocarpus trees must be planted within 30 days of the Effective Date of Land Use Permit 09LUP-00000-00166.
 - g) P&D staff shall verify that all landscaping trees associated with this LUP are planted and appropriately located so as to maximize screening as viewed from the Sipple property within the prescribed period of time.
 - h) Implement the irrigation recommendations of the arborist, outlined in the Duke McPherson letter, dated 3/11/09.
 - i) Maintain consistency with the approved tree protection plan.

j) Construction of a 5-foot garden/retaining wall of boulder material.

The parcel will continue to be served by the Montecito Water District, the Montecito Sanitary District, and the Montecito Fire District. Access will continue to be provided off of Stonehouse Lane. The property is a 2.04-acre parcel zoned 2-E-1 and shown as Assessor's Parcel Number 155-060-028, located at 660 Stonehouse Lane in the Montecito Community Plan Area, 1st Supervisorial District.

The attached findings and conditions reflect the Montecito Planning Commission's actions of July 22, 2009.

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 Monday, August 3, 2009 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$643 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA at the same time the appeal is filed.

Sincerely,

Dianne M. Black
Secretary to the Montecito Planning Commission

cc: Case File: 09APL-00000-00013, 09APL-00000-00014
Montecito Planning Commission File
Montecito Association, P.O. Box 5278, Montecito, CA 93150
Owner: Douglas & Fiona Stone, 9665 Wilshire Blvd, Ste 500, Beverly Hills, CA 90212
Architect: Bob Easton, 1486 E. Valley Road, Santa Barbara, CA 93108
Agent for Appellant: Susan Petrovich, 21 East Carrillo Street, Santa Barbara, CA 93101
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, Deputy County Counsel
J. Ritterbeck, Planner

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

DMB/dmv

ATTACHMENT A:
FINDINGS FOR APPROVAL

1.0 CEQA FINDINGS

The project, Case No. 09LUP-00000-00166 can be found exempt from environmental review based upon Section 15304 [Minor Alterations to Land] of the California Environmental Quality Act (CEQA) guidelines. Section 15304(b) states that projects that consist of minor public or private alterations in the condition of land, water, and/or vegetation, including new gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping are exempt from the provisions of CEQA. Because the project constitutes new landscaping, the exemption is appropriate.

2.0 LAND USE PERMIT FINDINGS

Pursuant to Section 35.472.110.E, a Land Use Permit application shall be approved or conditionally approved only if the decision-maker first makes all of the following findings:

2.1. The proposed development conforms to the applicable provisions of the Comprehensive Plan, including the Montecito Community Plan and with the Montecito LUDC.

The proposed project would be consistent with the Comprehensive Plan, including the Montecito Community Plan, as the project would abate a current zoning violation and bring the subject parcel into full compliance with all applicable land use development policies and zoning standards. Therefore this finding can be made.

2.2. That the proposed development is located on a legally created lot.

The subject parcel (APN 115-060-028) is recorded in Book 185, page 94-98 as lot 1 of the Cross Creek Tract Map 14,496, Phase II, in the office of the County Clerk & Recorder and as such is deemed a legally created parcel. Therefore, this finding can be made.

2.3. The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement 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 Chapter 35.491 (Nonconforming Uses, Structures, and Lots).

Installation of the approved additional landscaping will abate the existing zoning violation and would bring the subject property into compliance with all laws, rules, and regulations pertaining to zoning uses, height, setbacks and other applicable divisions of the Montecito Land Use Development Code. Therefore, this finding can be made.

3.0 MBAR DESIGN REVIEW FINDINGS

3.1. Design Review applications shall be approved or conditionally approved only if the Montecito Board of Architectural Review first makes all of the following findings:

- a. ***Overall structure shapes, as well as parts of any structure (buildings, fences, screens, signs, towers, or walls) are in proportion to and in scale with other existing or permitted structures on the same site and in the area surrounding the property.***

No new structures are proposed as a component of the project before the Planning Commission. However, a boulder wall, up to approximately 5 feet in height and 140 feet in length, was approved for construction inside of and adjacent to the southwestern edge of the development envelope. The wall was found to be in proportion to and in scale with the other existing and permitted structures on the site and area surrounding the property. Therefore, this finding can be made.

- b. ***Electrical and mechanical equipment will be well integrated into the total design concept.***

There are no electrical or mechanical equipment structures proposed as a part of the approved project on appeal. Therefore, this finding is not applicable.

- c. ***There will be harmony of color, composition, and material on all sides of a structure.***

There is no new structure proposed as a part of the approved project on appeal requiring design review of color, composition and material. Therefore, this finding is not applicable.

- d. ***There will be a limited number of materials on the exterior face of the structure.***

As stated above, there is no new structure proposed as a part of the approved project on appeal. Therefore, this finding is not applicable.

- e. ***There will be a harmonious relationship with existing and proposed adjoining developments, avoiding excessive variety and monotonous repetition, but allowing similarity of style, if warranted.***

At the MPC hearing of July 22, 2009, the Commission approved a new project description that included planting a total of 9 new Podocarpus trees to provided adequate screening between the Sipple and Stone properties in order to create a harmonious relationship between the two adjoining lots. Therefore, this finding can be made.

- f. ***Site layout, orientation and location of structures and signs will be in an appropriate and well designed relationship to one another, and to the environmental qualities, open spaces, and topography of the site with consideration for public views of the hillsides and the ocean and the semi-rural character of the community as viewed from scenic view corridors as shown on Figure 37, Visual Resources Map in the Montecito Community Plan EIR (92-EIR-03).***

With consideration for public views of the hillsides and the ocean and the semi-rural character of the community as viewed from scenic view corridors, the subject parcel is not viewable from any of these applicable public viewsheds. Therefore, this finding is not applicable.

- g. ***Adequate landscaping will be provided in proportion to the project and the site with due regard to preservation of specimen and landmark trees, existing vegetation, selection of plantings that are appropriate to the project and that adequate provisions have been made for the maintenance of all landscaping.***

All specimen and protected trees and other existing vegetation was reviewed and considered within the MBAR approval of the additional landscaping. Additionally, the project has received numerous reviews and comments from County-qualified arborist, Duke McPherson,

dated January 22, 2009, March 11, 2009 and March 25, 2009 (See Attachments E-G) regarding the adequacy of preservation of existing trees and appropriateness of the plantings, irrigation schedule and maintenance of all new and existing landscaping. Therefore, this finding can be made.

- h. Grading and development is designed to avoid visible scarring and will be in an appropriate and well designed relationship to the natural topography with regard to maintaining the natural appearance of the ridgelines and hillsides.***

With regard to maintaining the natural appearance of ridgelines and hillsides, the subject parcel is a relatively flat lot, not subject to the ridgeline and hillside development policies. However, grading and development is appropriate and well designed with respect to the new garden wall inside the development envelope. Therefore, this finding can be made.

- i. Signs including associated lighting are well designed and will be appropriate in size and location.***

No signage or lighting is proposed as a part of the approved project on appeal. Therefore, this finding is not applicable.

- j. The proposed development will be consistent with any additional design standards expressly adopted by the Board for a specific local community, area or district in compliance with Local design standards.***

There are no additional design standards expressly adopted by the Board beyond those discussed in Section 2.1 above. Therefore, this finding is not applicable.

ATTACHMENT C: CONDITIONS OF APPROVAL

1. **Project Description.** This Land Use Permit is based upon and limited to compliance with the project description, the exhibits, and the conditions of approval set forth below. 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.

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- b) **The addition of 2 more Podocarpus trees to be planted north of and adjacent to the 7 trees from the Easton Plan #2 and of the same measurements of size as the 7 other trees.**
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- e) **To the maximum extent feasible, the off-setting and undulation of the 9 new Podocarpus trees should create an optical overlapping effect at the widest areas of the trees as viewed from the Sipple property.**
- f) **All 9 Podocarpus trees must be planted within 30 days of the Effective Date of Land Use Permit 09LUP-00000-00166.**
- g) **P&D staff shall verify that all landscaping trees associated with this LUP are planted and appropriately located so as to maximize screening as viewed from the Sipple property within the prescribed period of time.**
- h) **Implement the irrigation recommendations of the arborist, outlined in the Duke McPherson letter, dated 3/11/09.**
- i) **Maintain consistency with the approved tree protection plan.**
- j) **Construction of a 5-foot garden/retaining wall of boulder material.**

The parcel will continue to be served by the Montecito Water District, the Montecito Sanitary District, and the Montecito Fire District. Access will continue to be provided off of Stonehouse Lane. The property is a 2.04-acre parcel zoned 2-E-1 and shown as Assessor's Parcel Number 155-060-028, located at 660 Stonehouse Lane in the Montecito Community Plan Area, 1st Supervisorial District.

Standard Conditions

2. **Plan Requirements.** All conditions shall be shown on grading and building plans.
3. **Project Conformity.** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas, and landscape areas, and the protection and preservation of resources shall strictly conform to the project description above and

the conditions of approval below. The property and any portions thereof shall be sold, leased, or financed only in compliance with this project description and the conditions of approval hereto.

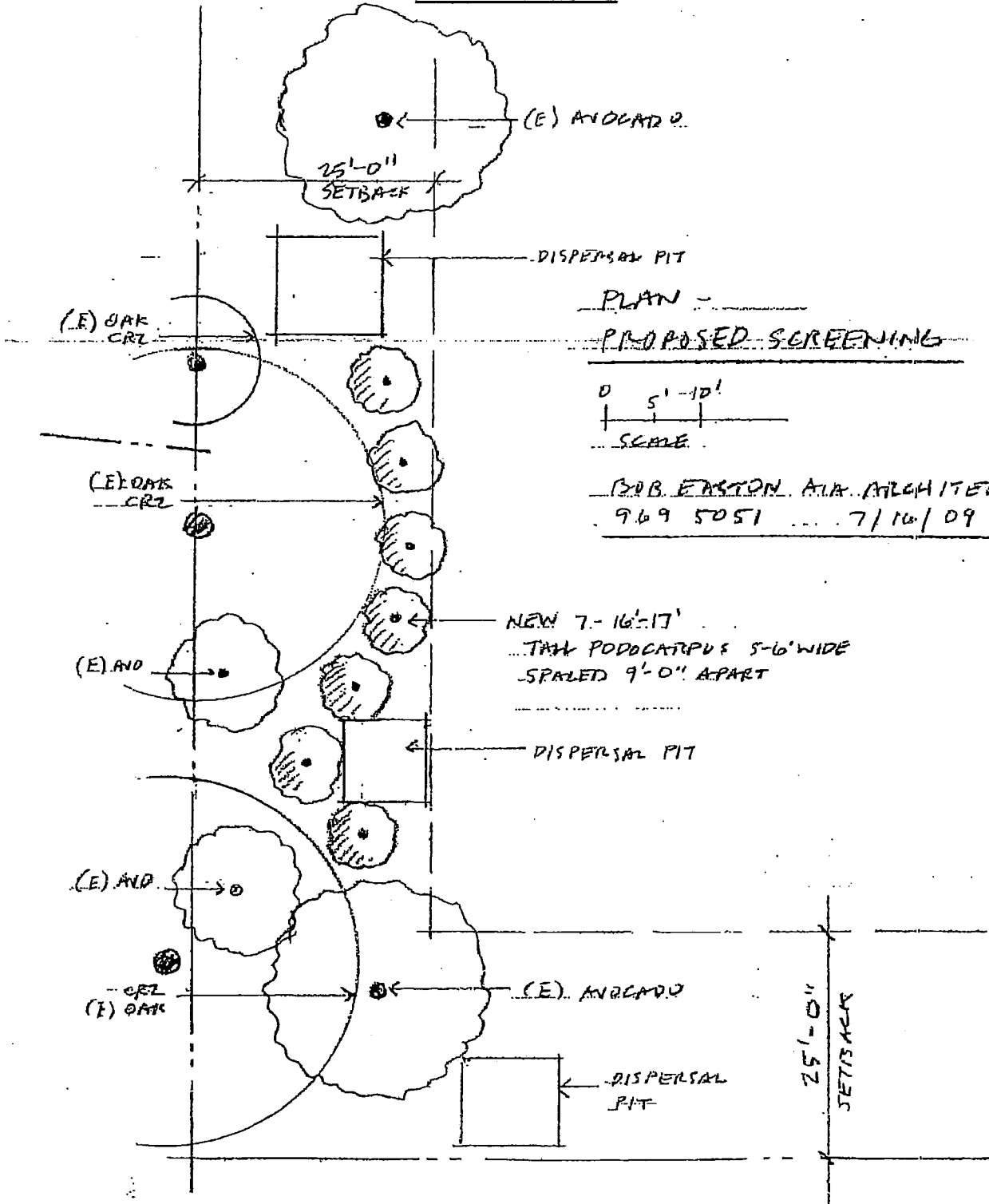
4. **Montecito Board of Architectural Review.** Exterior elevations, colors, and materials to conform to that approved by the MBAR as part of 06BAR-00000-00182. Final MBAR review and approval shall be obtained prior to issuance of the LUP. The project shall conform to final MBAR approval in all respects. The project shall be in strict conformance with MBAR approved colors and materials. The MBAR approved color and material board shall be kept on-site throughout construction and be available for Planning and Development staff. **Plan Requirement:** Materials shall be denoted on building plans.
5. **Night Lighting.** Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and approval by the Montecito Board of Architectural Review prior to issuance of the LUP.
6. **Storm Water Runoff.** Storm drain inlets shall be protected from sediment-laden waters by the use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps. Best Management Practices (BMPs) shall be incorporated into the project and maintained throughout all construction and development associated with this LUP.
7. **Permit Acceptance.** The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
8. **Additional Permit Requirements.** The use and/or construction of the building or structure, authorized by this approval cannot commence until the LUP has been issued. Prior to the issuance of the LUP, all of the project conditions that are required to be satisfied prior to issuance of the LUP must be satisfied.
9. **Time Extension.** If the applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.
10. **Construction Hours.** Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on State holidays (i.e., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** *Three (3)* signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits. **MONITORING:** Building & Safety shall respond to complaints.
11. **Off-street Construction Parking.** All construction-related vehicles, equipment staging and storage areas shall be located onsite and outside of the road and highway right of way. The applicant shall provide all construction personnel with a written notice of this requirement and a description of approved parking, staging and storage areas. The notice shall also include the name and phone number of the applicant's designee responsible for enforcement of this restriction. **Plan Requirements:** Designated construction personnel parking, equipment staging and storage areas shall be depicted on project plans submitted for land use permit clearance. A copy of the written

notice shall be submitted to P&D prior to permit clearance and at any time during construction, at P&D's request. **Timing:** This restriction shall be maintained throughout construction. **MONITORING:** Building & Safety shall confirm the availability of designated onsite areas during construction, and as required, shall require re-distribution of updated notices and/or refer complaints regarding offsite parking to appropriate agencies.

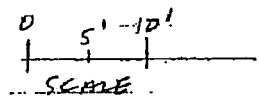
12. **Permit Expiration.** This LUP shall expire two years from the date of issuance or, if appealed, the date of action by the Board of Supervisors on the appeal, if the permit for use, building or structure permit has not been issued.
13. **Print & Illustrate Conditions on Plans.** All applicable final conditions of approval shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
14. **Additional Permits Required.** Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Building Permit from P&D. This Permit is required by ordinance and is necessary to ensure implementation of the conditions required under the LUP.
15. **Indemnity and Separation Clauses.** Developer shall defend, indemnify and hold harmless the County or its agents, 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 the LUP. In the event that the County fails promptly to notify the 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.
16. **Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other mitigation 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 within 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 County and substitute conditions may be imposed.

Exhibit 1

Easton Plan #2



PLAN -
PROPOSED SCREENING



BOB EASTON, AIA, ARCHITECT
969 5051 7/16/09