



PLANNING & DEVELOPMENT
APPEAL FORM

COUNTY OF SANTA BARBARA
OFFICE OF THE
SUPERVISOR
2011 SEP -6 AM 9:22

SITE ADDRESS: 1717 Fernald Point Lane
ASSESSOR PARCEL NUMBER: 007-380-021
PARCEL SIZE (acres/sq.ft.): Gross 0.42 acre Net _____
COMPREHENSIVE/COASTAL PLAN DESIGNATION: SRR-1.0 ZONING: 1-E-1
Are there previous permits/applications? No Yes numbers: See Attachment
(include permit# & lot # if tract)
Are there previous environmental (CEQA) documents? No Yes numbers: _____

Margaret J. Dent, Trustee, et al.
1. Appellant: (See Attachment) Phone: (805) 966-1501 FAX: (805) 966-9204
Mailing Address: 1711 Fernald Point Lane, Santa Barbara, CA 93108 E-mail: mindy@jrogersfamily.com
Street City State Zip
2. Owner: Alan and Kathryn Van Vliet Phone: (818) 437-7800 FAX: _____
Mailing Address: 1717 Fernald Point Lane, Santa Barbara, CA 93108 E-mail: _____
Street City State Zip
3. Agent: Jennifer Foster Phone: (805) 565-8522 FAX: _____
Mailing Address: P.O. Box 591, Summerland, CA 93067 E-mail: jennifer@fosterplanning.com
Street City State Zip
4. Attorney: Mullen & Henzell L.L.P. by Lindsay G. Shinn Phone: (805) 966-1501 FAX: (805) 966-9204
Mailing Address: 112 East Victoria Street, Santa Barbara, CA 93101 E-mail: lshinn@mullenlaw.com
Street City State Zip

COUNTY USE ONLY

Case Number: _____ Companion Case Number: _____
Supervisorial District: _____ Submittal Date: _____
Applicable Zoning Ordinance: _____ Receipt Number: _____
Project Planner: _____ Accepted for Processing _____
Zoning Designation: _____ Comp. Plan Designation _____

COUNTY OF SANTA BARBARA APPEAL TO THE :

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title Van Vliet Addition

Case No. 11CDH-00000-00008

Date of Action August 24, 2011

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? Montecito

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and "aggrieved party" as defined on page two of this appeal form:

Applicant is the owner of 1711 Fernald Point Lane, located just south of 1717 Fernald Point Lane, and of certain recorded easements over 1717 Fernald Point Lane. Applicant submitted written objections, comments and concerns to the Montecito Planning Commission (see attached letter dated August 19, 2011) and to the Montecito Board of Architectural Review (see attached letter dated March 14, 2011):

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See attached letters dated August 19, 2011 and March 14, 2011.

Specific conditions imposed which I wish to appeal are (if applicable):

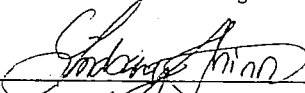
- a. See attached letters dated August 19, 2011 and March 14, 2011.
- b.
- c.
- d.

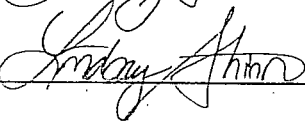
Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Mullen & Henzell L.L.P. by Lindsay G. Shinn  9/6/11
Date

Print name and sign - Firm
Mullen & Henzell L.L.P. by Lindsay G. Shinn  9/6/11
Print name and sign - Preparer of this form Date

N/A
Print name and sign - Applicant Date

Mullen & Henzell L.L.P. by Lindsay G. Shinn  9/6/11
Print name and sign - Agent Date

N/A
Print name and sign - Landowner Date



Permit History by Parcel
Parcel Number 007-380-021

Printed on September 02, 2011 at 1:54 pm

Reference Address: 1717 FERNALD POINT LN, SANTA BARBARA CA
Legal Description:
Acreage: 0.42

Reference Owner: VAN VLIET, ALAN E
Supervisorial District: 1

Zoning: 1-E-1

Parcel Geographical Data

BAR Jurisdiction: All or portion within Montecito BAR
CA Coastal Comm Jurisdiction: All or part within Appeal or Permit Jurisdiction
Coastal Zone: All or portion Within Coastal Zone
Comprehensive Plan: SRR-1.0
Critical Habitat: Check Critical Habitat Overlays - May Apply
ESH RC Overlay: Check ESH and RC Overlays - May Apply
Flood Hazard: Check Flood Hazard Overlay - May Apply
HMA: All or portion within the South Coast HMA
Home Exemption Value: 7000.00
Personal Value: 0.00
Plan Area: All or portion Within Montecito Community Plan
Rural Region: All or portion within South Coast Rural Region
Tax Rate Area: 078012
Urban: All or portion within Urban Area
Use Code: 0100

Special Districts and Other Information of Interest (derived from the Tax Rate Area number):

MONTECITO UNION ELEM. SCHOOL
SANTA BARBARA HIGH SCHOOL
MONTECITO FIRE PROTECTION
MONTECITO SANITARY
SANTA BARBARA COUNTY WATER AGENCY
MONTECITO COUNTY WATER

Accela Cases

Table with 6 columns: Case Number, Dept, Filed, Planner, Project Name or Work Description, Status. Rows include cases 11BAR-00000-00024, 11CDH-00000-00008, and 11CUP-00000-00011.

LIX Building Cases

Table with 6 columns: Application Number, Description, Issuance Date, Action Date, Status, Misc. Rows include applications 128720 and 264900.

LIX Planning Cases

<u>Application Number</u>	<u>Description</u>	<u>Issuance Date</u>	<u>Action Date</u>	<u>Status</u>	<u>Planner</u>
65-V-003		11/11/11	00/00/00		
83-SUP-035		11/11/11	00/00/00		
88-BAR-343	SFD ADD	07/20/88	03/24/89	AF	
88-CDP-119	CABANA	05/06/88	05/12/88	A	SJG
88-CDP-236	SFD ADD	08/30/88	04/26/89	AC	LS
88-SUP-068	SFD ADD	08/30/88	12/12/88	A	BAJ
95-EMP-006	CRK PROTEC	02/07/95	00/00/00		KSK
95-EMP-016	CRK PROTEC	03/20/95	00/00/00		BB
97-BAR-263	POOL	09/23/97	09/26/97	AF	
97-CDP-171	POOL	09/02/97	11/03/97	A	HKB
97-MOD-010	POOL	09/02/97	11/03/97	A	HKB

Attachment to Appeal to the Board of Supervisors

Site Address: 1717 Fernald Point Lane

Case No.: 11CDH-00000-00008

1. Appellant:

Margaret J. Dent, Trustee of The Margaret J. Dent 2004 Revocable Trust dated May 17, 2004; Jesse T. Rogers and Melinda Rogers, Co-Trustees of The Rogers Family 1995 Trust dated March 31, 1995; Arnold W. Jones III, Trustee of The Melinda B. Rogers 2003 Irrevocable Trust dated August 22, 2003; and Arnold W. Jones III, Trustee of The Mark C. Basham 2003 Irrevocable Trust dated August 22, 2003.

Mullen & Henzell L.L.P.

ATTORNEYS AT LAW

e-mail: lshinn@mullenlaw.com

August 19, 2011



By Hand Delivery

Montecito Planning Commission
123 East Anapamu Street
Santa Barbara, CA 93101

RECEIVED

AUG 19 2011

S.B. COUNTY
PLANNING & DEVELOPMENT

J. ROBERT ANDREWS
JAY L. BECKERMAN
JOSEPH F. GREEN
MACK S. STATON
GREGORY F. FAULKNER
WILLIAM E. DEGEN
CHRISTINE P. ROBERTS
MICHAEL E. CAGE
LORI A. LEWIS
PAUL K. WILCOX
JARED M. KATZ
DEBORAH K. BOSWELL
RAMÓN R. GUPTA
GRAHAM M. LYONS
RAFAEL GONZALEZ
JANA S. JOHNSTON
LINDSAY G. SHINN
ROBERT D. DOMINGUEZ
JENNIFER S. ADKINS
JARED A. GREEN

Re: Montecito Planning Commission Hearing August 24, 2011
Case Number 11CDH-00000-00008
Van Vliet Addition
1717 Fernald Point Lane

Dear Commission Members:

This letter constitutes the objections, comments and concerns of our clients, the Trustees who own the property at 1711 Fernald Point Lane ("1711"), just south of 1717 Fernald Point Lane ("1717").

1. *Interference with recorded scenic easement.* A recorded easement for scenic purposes burdens 1717 in favor of 1711.¹ Because the addition of a second story will interfere with the scenic view of the mountains from 1711 and therefore violates a recorded encumbrance on 1717, the owners of 1711 request that the second story addition, and any other alterations that would interfere with the scenic easement, not be allowed.
2. *Interference with access and parking.* 1717 abuts directly on Fernald Point Lane and is situated between Fernald Point Lane and 1711. The two properties share a common driveway roughly 15 feet in width and 225 feet in length for access off of Fernald Point Lane. The shared drive is the only access from the road to 1711. Parking for 1711 is at the end of the shared drive, adjacent to 1711. The driveway and parking arrangements are pursuant to recorded easements burdening 1717 in favor of 1711.²

For the reasons stated above, and because the owner-occupant of 1711 is 81 years old and has limited mobility, the owners of 1711 request that a specific written protocol guaranteeing 1711 open and uninterrupted access and parking – at all times, by car and foot, along the driveway and in the parking area – be

¹ See Instrument No. 79-24202 recorded in Official Records May 31, 1979.

² See Instrument No. 24543 recorded in Official Records July 17, 1975; Instrument No. 79-24202 recorded in Official Records May 31, 1979; and Instrument No. 90-3709 recorded in Official Records January 18, 1990.

DENNIS W. REILLY
CHARLES S. BARGIEL
KIRK R. WILSON
OF COUNSEL

THOMAS M. MULLEN
1915-1991

ARTHUR A. HENZELL
RETIRED



a specific condition of approval for any project that ultimately may be approved.

In addition, we note that the Staff Report recommends that the Commission condition issuance of a Coastal Development Permit on the preparation of a Construction Parking Plan.³ The proposed condition requires construction parking to occur on-site to the maximum extent feasible. For the reasons stated above, and because of the limited size of the driveway and parking area, the owners of 1711 respectfully request that parking occur off-site.

We also note that the Montecito BAR had similar concerns about parking during construction as noted in the minutes of its April meeting. A specific condition of approval should be adopted to ensure the construction does not interfere with the rights of the 1711 owners freely to access their property at all times.

- 3: *Construction Noise and Debris.* Because 1711 is located immediately to the south of 1717, the two properties share a common driveway, and the 1711 residence is in close proximity to proposed construction areas, the owners of 1711 request that a specific written protocol that controls construction noise and debris be a specific condition of approval for any project that ultimately may be approved.

The Staff Report recommends that the Commission condition issuance of a Coastal Development Permit on Condition 4, which contains, among other things, limitations on hours of work. For the reasons stated above, and because the owner-occupant of 1711 is 81 years old (and not an early riser), the owners of 1711 request that the Commission adopt the condition with one change: that construction activity be limited to the hours between 8:00 a.m. and 4:30 p.m., Monday through Friday.

- 4: *Pool Equipment.* The project proposes that the pool equipment be relocated much closer to 1711 than currently situated. Because of noise concerns, the owners of 1711 request that the pool equipment be moved north, closer to where it is now.
- 5: *Lighting.* The owners of 1711 express their concern about the addition of lighting and the affect it will have on 1711. Prior to any approval, a specific lighting plan should be submitted for review by the County and the general public.

³ See Staff Report Attachment B, Condition 3.



6. *Privacy.* A second story will interfere with the existing privacy of 1711 and, therefore, is objected to.

7. *Other Considerations.*

- a. The County has not analyzed the possible impacts to public views from the beach to the mountains. Without a determination by the County that the second-story addition is not visible from the beach, the County cannot make Finding 2.4, cannot make the necessary findings of Comprehensive Plan compatibility, and cannot rely on a CEQA categorical exemption.
- b. The County has not made all necessary Comprehensive Plan Consistency Findings and Coastal Development Permit Findings. Many of the applicable policies have not been addressed or identified in the proposed Findings.
- c. The County should not permit additional development of this significantly undersized parcel. The parcel is zoned 1-E-1 (1 acre minimum) but is only 0.42 acres, less than half the required size. The parcel already is developed with a 3,000 + sq.ft. home, and several outbuildings.
- d. The project has changed since last reviewed by the MBAR. Attachment D provides minutes from the last MBAR hearing, in which the project described is smaller than the project before the MPC. It is unclear what changes have been made to the project since the last MBAR hearing and whether those changes affect the MBAR's conclusions regarding the project.

Thank you for your consideration.

Very truly yours,

Lindsay G. Shim of
Mullen & Henzell L.L.P.

Mullen & Henzell L.L.P.

ATTORNEYS AT LAW

e-mail: cbargiel@mullenlaw.com



March 14, 2011

J. ROBERT ANDREWS
JAY L. BECKERMAN
JOSEPH F. GREEN
MACK S. STATON
GREGORY F. FAULKNER
WILLIAM E. DEGEN
CHRISTINE P. ROBERTS
MICHAEL E. CAGE
LORI A. LEWIS
PAUL K. WILCOX
JARED M. KATZ
DEBORAH K. BOSWELL
RAMÓN R. GUETA
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CHARLES S. BARGIEL
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OF COUNSEL

THOMAS M. MULLEN
1915-1991

ARTHUR A. HENZELL
RETIRED

By Hand Delivery

Attention: Hearing Support
Planning and Development
Montecito Board of Architectural Review
123 East Anapamu Street
Santa Barbara, CA 93101

Re: **MBAR Public Hearing March 14, 2011**
Conceptual Review
Item 5: 11BAR-00000-00024
Van Vliet Addition and Remodel
1717 Fernald Point Lane

Dear Board Members:

This letter constitutes the objections, comments and concerns of our clients, the Trustees who own a property at 1711 Fernald Point Lane, just south of 1717 Fernald Point Lane, which properties share a common driveway for access off of Fernald Point Lane. Up until approximately 1965, 1711 and 1717 Fernald Point Lane were a single parcel. Our clients' property is located immediately to the south of 1717 Fernald Point Lane ("1717").

Our clients' objections, comments and concerns are as follows:

1. *Construction noise, debris and interference with access.* Because 1711 Fernald Point Lane ("1711") is located immediately to the south of 1717 and because the two properties share a common driveway, the owners of 1711 request that a specific written protocol which guarantees open and uninterrupted access at all times and controls noise and debris be a specific condition of any project that ultimately may be approved. Because, noise is a concern, hours of work should strictly be limited.
2. *Proposed location for pool equipment.* The project proposes that the pool equipment be relocated much closer to the property at 1711. Because of noise

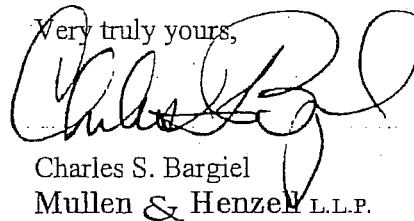
Attention: Hearing Support
Planning and Development
Montecito Board of Architectural Review
March 14, 2011
Page 2

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concerns, the owners of 1711 request that the pool equipment be moved north, closer to where it is now.

3. *Lighting.* The owners of 1711 express their concern about the addition of lighting and the affect it will have on the 1711 property. Prior to any approval, a specific written lighting plan should be submitted for review and consent by the neighbors.
4. *Second story.* A second story will interfere with the existing privacy and, therefore, is objected to.

Very truly yours,



Charles S. Bargiel
Mullen & Henzel L.L.P.

CSB:lch