

ATTACHMENT 8

AGENDA ITEMS

ITEM #: 3

MEETING DATE: 3-23-16



The voice of our community

March 14, 2016
Montecito Planning Commission
123 E. Anapamu Street
Santa Barbara, CA 93101

Re: Revisions to the Montecito Architectural Guidelines and Development Standards and the Montecito Land Use Development Code to Improve Hillside Development Outcomes, MPC Agenda of March 23, 2016

Dear Chair Phillips and Commissioners:

The Montecito Association is pleased that the proposed amendments to the Montecito Guidelines and Development Standards and the Montecito Development Code to Improve Hillside Development (Architectural Guidelines) are moving forward. We request your support in adopting changes to the Architectural Guidelines and related zoning ordinances to improve the outcome of hillside development applications. We have been advocating for changes to these documents since at least 2009 after seeing evidence that proposed and approved development in the Montecito hillside areas were not in compliance with the Comprehensive Plan and Montecito Community Plan intent that "Development shall be subordinate to the natural open space characteristics of the mountains."

As we prepare these comments, we do not have the benefit of staff's proposed Architectural Guidelines and zoning ordinance language, so our comments are based upon what we understand to be the staff recommendations as discussed with the Association's Land Use Committee and at the Montecito Board of Architectural Review. We generally concur with the direction of staff with respect to incorporating Architectural Guideline standards for hillside development in the zoning code, clarifying retaining wall limitations, revising maximum building height limitations and including basement area as part of the recommended floor area (FAR).

We do differ from staff's recommendations on the following points:

- 1) **Basements:** We believe that the amount of day-lit basement area included in the recommended floor area should be 800 square feet plus 50% of the remaining area. We believe that this is a preferable method to taking a direct proportion of the area of walls above grade because it will more accurately represent the scale of development and not be subject to manipulation by building up grade around a structure. This is also consistent with the recommendation of a majority of MBAR members.
- 2) **Attached Accessory Structures:** We have suggestions on how to ensure that the area of all attached accessory uses/structures are considered as part of the floor area of the main structure. While we have not seen staff's proposal to clarify that attached accessory structures are included in the recommended FAR, our understanding is that staff will explicitly include attached accessory structures but exclude attached second residential units. As written, the area of attached accessory structures

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(excluding garages) is part of the building floor area included in the recommended maximum floor area. Unfortunately, a MBAR form used for floor area calculations excludes attached accessory structures. We propose that the Architectural Guidelines language remain as drafted in this respect and that the MBAR form be revised. This will result in no change to the process for review of second units but allow MBAR to compare the total scale of a building to surrounding development.

- 3) **Maximum Building Height:** We hope to clarify that the reduction in maximum height from 32 to 28 feet is applicable only in the areas covered by the Hillside Overlay.
- 4) **Detached Accessory Structures:** We also have requested adoption of a methodology to include detached accessory structures (DAS) under the umbrella of recommended maximum floor area as part of the FY 16-17 County Planning and Development Work Plan. (It is our understanding that this item cannot be included in the current fiscal year based on staff's conclusion of inadequate public input at this juncture and staff resources). It is our hope to see this issue addressed in the most efficient and expedient manner available. This request is in response to a pronounced trend toward the proliferation of accessory structures on Montecito parcels. It is not unusual to see two, three, four or more DAS on lots of less than two acres, where guesthouses are not otherwise allowed. As we change the Architectural Guidelines to count basement area toward FAR, we expect even more pressure to build accessory structures. We suggest the addition of language in the Guidelines along these lines: "Further, the recommended maximum floor area of all detached accessory structures (excluding garages as addressed above) on a property shall be limited to x% of the recommended floor area of the house. Any area in excess of this amount shall be included as part of the floor area of the structure."

We are grateful for Planning & Development's efforts to move this project forward. We look forward to reviewing the proposed amendment language when the staff report is available and may offer additional comments at that time. Thank you in advance for your attention to these recommendations.

Sincerely,



Aaron Budgor, President

March 21, 2016

To: Michael Phillips, Chair
Montecito Planning Commission



Re: Montecito Architectural Guidelines & Development Standards Limited Update
Support for Method 1, Proportional Method

Dear Mr. Chair,

I am writing to urge the honorable commission to carefully consider the proposed options for incorporating basement floor area into the calculations for recommended maximum net floor area of the primary residence. The two proposed options are significantly different and I believe that Method 1, Proportional Method, is the superior option.

I am a Santa Barbara based architect and served as Chair of the Summerland Area Planning Advisory Committee (SUNPAC). As part of a similar effort, we carefully considered and adopted a basement calculation method that closely mirrors Method 1, Proportional Method. Based on this experience with SUNPAC, I was asked by County Planning Staff to provide consultation and clarification on the proposed basement calculation methodology for the Montecito Architectural Guidelines & Development Standards Limited Update. To be clear, this letter is not representing an opinion from the SUNPAC board, but is my opinion as a concerned community member, Montecito area resident, and practicing architect in the Montecito community.

Based on similar concerns, the SUNPAC, with community input, came to the reasonable conclusion that if basements are not visible to neighbors or the public then there is no reason to apply the basement area to the floor area ratio calculation. This "can't see it, don't count it" conclusion is simple, reasonable, and fair. In Summerland we used the term "True Basement" for basements that are not visible. These basements have no long term impact, do not add to the scale or presence of a residence, and should be exempt from the floor area ratio calculation. If visible, we came to the reasonable conclusion that it should factor into the maximum floor area based on a calculation similar to Method 1, Proportional Method. I agree it is a reasonable proposition that a percentage of the visible basement walls be used as a basis for calculating the size of structure. This encourages applicants to minimize visibility. An additional benefit to adopting a methodology similar to Summerland is consistency of policy across the County. The Board of Supervisors have expressed their desire for more planning consistency across different areas of the County.

Having attended the MBAR meetings and a public workshop regarding the proposed guidelines it is my understanding that the main concern regarding basement floor area is the ability of an excluded basement to increase the size, bulk, and scale of a primary structure without counting



that area in the recommended maximum net floor area calculation. This is of particular concern on hillside and ridgeline lots where "daylight basements" are visible to neighbors and/or the community, potentially increasing the public visual impact. I believe the intention of the amended guidelines is to eliminate the "loopholes" that have led to an increase of apparent size, bulk, and scale of a primary residence. However, it is my opinion that calculation method alone cannot adequately and fairly address the concern as they have the unintended result of limiting development that otherwise would not pose downhill visibility impacts to the community.

One recommendation is that only projects falling within the Hillside Overlay or subject to the Hillside and Ridgeline ordinance apply a basement calculation methodology, specifically projects that propose to daylight usable basement area on a downhill side. If properties do not fall within these hillside and ridgeline constraints then there is no reasonable position to limit basement development as it is not presenting an apparent increase of size, bulk, and scale to the community. Specifically, Method 3, 800 SF + 50% Method, though simple to calculate, is unreasonably onerous and particularly penalizes homeowners on flatter lots not subject to Hillside Overlay or Hillside and Ridgeline guidelines. It is proposed as an indiscriminate limit to property development and puts unreasonable development restrictions on every property in Montecito regardless of the visibility of the structure or flatness of the topography.

In addition to applying a calculation methodology, I recommend Planning Staff incorporate added clarity with regard to daylight basements, and outline conditions when a basement is subject to the calculation. Similar criteria is proposed in Method 3 for "partially underground" basements. Method 1, as proposed, requires that basement area be counted towards the recommended maximum net floor area of the primary residence if only 18" of basement wall (the height of an ordinary crawl space wall) is exposed and no usable basement space daylights to the public by way of windows, doors, etc. Similarly, both proposed methods would require inclusion of floor area created by a concealed and inwardly focused basement court, one that does not expose itself to the public nor increase the apparent size, bulk, and scale of the project.

Basements and Development Impact:

Basements are a very low impact way to relieve development pressure on visible above grade development. In other parts of the Country, residential basements have for hundreds of years been standard construction methodology for homes and estates. Much of the Montecito community below Mountain Drive is on flatter topography and/or behind hedges. To conclude that residences in these areas can only have limited residential amenities in basement areas without impacting their allowable floor area, and not enjoy the standards of homes and estates across the Country is unnecessarily limiting the use and enjoyment of the majority of properties in Montecito.

Basements and Intensity of Use:

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One of the arguments for limiting basement space is to avoid the increased impact on community resources due to added square footage. However it is the number of bedrooms that determine an intensity of use, not below grade floor area. Due to building code restrictions, bedrooms are difficult to install in basements. Most basement uses are for added amenities like screening rooms, gyms, wine cellars, mechanical/electrical rooms and storage. These uses are for the benefit of the homeowners and do not add car traffic or other long range community impacts. Where a bedroom is in a basement, it must daylight for windows and fresh air. In hillside homes this can become visible and add to the apparent size of a home. In this case, it should be considered in the recommended maximum net floor area per Method 1, Proportional Method.

Basements and Grading Impacts:

Basements do involve grading but it is mitigatable impact and subject to review and approval under existing County regulations. In addition, there are conditions that can be applied to a project to mitigate one time grading operations, such as approved haul routes, limits on size of truck loads, and hours of grading operation. Grading is a short term impact for the long term gain of property use.

In conclusion, I support Method 1, Proportional Method, for projects falling within the Hillside Overlay or subject to the Hillside and Ridgeline ordinance, and with added clarity as to “daylighting” and when a basement must be counted. It is consistent with the SUNPAC methodology, it is fair, and does not place an unreasonable blanket limit to development on every property in Montecito.

Sincerely,

Robin Donaldson AIA

cc:

Salud Carbajal, 1st District Supervisor, County of Santa Barbara

Allen Bell, Supervising Planner, County of Santa Barbara

Julie Harris, Senior Planner, County of Santa Barbara

David Villalobos, Planning Commission Recording Secretary

Montecito Architectural Guidelines Limited Update

Hearing at the Montecito Planning Commission

March 23, 2016

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Staff Report Page 3: Issue Summary

Detached Accessory Structures

In order to develop an understanding of the existing on the ground conditions, please instruct P&D to create a worksheet that shall be placed on the drawings that describes each detached accessory building. Furthermore, please instruct P&D staff to create and maintain no less often than once a month a master database that contains all of this information plus basic parcel information (address, APN, Gross Acreage, etc. Finally, please, instruct P&D to make this information easily and universally (i.e. on the internet) available to all interested parties.

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Basements

I recommend Option 3: 800 square feet plus 50%, providing that there is a trigger that excludes fully buried basements.

Option 1. There is a more direct relationship of "cause of concern" to "ways to directly address the concern". Option 1 "rewards" designs that bury 3 sides of the basement, the most common configuration in the hillsides. The true result is that a MAXIMUM of 25% of the basement area being included.

Option 3 is easy, direct, and also provides a way for "numeric" Neighborhood Compatibility Studies to be completed into the future. As individual building sizes grow, more applicants will want a clear, easily calculated, method to determine the maximum size from a neighborhood comparison point of view, not just a one size fits all "FAR point of view". We should enable that now, not make it more difficult.

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RSUs

Staff correctly begins its argument for excluding RSUs within the FAR calculation based on Government Code 65852.2 which specifically excludes a discretionary (PUBLIC HEARING BY A LEGISLATIVE BODY) review of any RSU application.

Furthermore they state that since the FAR calculation is a guideline, not a "fixed zoning regulation" and is only evaluated in a discretionary review by the MBAR (a public hearing), that the area of RSUs should be EXCLUDE from the FAR.

This argument fails to recognize that the Chair of the MBAR is **REQUIRED** to review all RSU and grant it approval. (MLUDC 35.472.070 C. 7. and Coastal 35-184.3 I. G.) These two code sections DO NOT LIMIT THE SCOPE of the Architectural Review to be conducted by the Chair and it is only prudent to assume that since there is not limitations imposed, a review consistent with that given by the "full Board" including all issues, concerns, and methodologies is not only allowed, but required. Since the MBAR routinely reviews issues around Mass Bulk and Scale and Neighborhood Compatibility, members of the community expect that these issues will be discussed for RSUs as well. In order to assess these concerns in a similar manner as done by the full board, the FAR has to be calculated and disclosed to the Chair.

Furthermore, in the August 6, 2003 HCD memo states: "Architectural review in a ministerial fashion includes architectural standards and design guidelines with clear, fixed and objective standards." If the FAR calc in Table 1 and Table 2 don't meet that definition WITHIN THE CONTEXT OF BEING A GUIDELINE, I don't know what does...

Please ask staff to reconsider that position in light of this information and report back to you before this goes to the Board of Supervisors.

Suggested Misc. Clarification:

Lot Size in FAR Calculation

In either Attachment D or E, I believe that the lot area should be clarified as using **GROSS** acreage. There is confusion about this from time to time.

And in relation to the exclusion for garages, I would suggest slightly changing the language to state: "For attached garages of greater than 800 square feet, the square footage in excess **of the 800 square exclusion** shall be included as part..."

and any provisions of the local ordinance which are in conflict with second-unit law, such as a conditional use permit, should be considered null and void. However, if a locality has a second-unit ordinance that does not meet the intent and subsections (a) or (c), the locality is required to ministerially consider a second-unit application in accordance with the State standards in subsection (b).

What is Ministerial Review?

Chapter 1062 requires development applications for second-units to be "...considered ministerially without discretionary review or a hearing..." or, in the case where there is no local ordinance in compliance with subsections (a) or (c), a local government must "...accept the application and approve or disapprove the application ministerially without discretionary review..." In order for an application to be considered ministerially, the process must apply predictable, objective, fixed, quantifiable and clear standards. These standards must be administratively applied to the application and not subject to discretionary decision-making by a legislative body (For clarification see the attached definition of ministerial under California Environmental Quality Act (CEQA) Guidelines, Section 15369.). The definition is generally accepted and was prepared pursuant to Public Resources Code.

An application should not be subject to excessively burdensome conditions of approval, should not be subject to a public hearing or public comment and should not be subject to any discretionary decision-making process. There should be no local legislative, quasi-legislative or discretionary consideration of the application, except provisions for authorizing an administrative appeal of a decision (see Appeal discussion below).

The intent of Chapter 1062 is to improve certainty and predictability in the approval process. Where special use or variances must apply, the locality should grant the variance or special use permit without a public hearing for legislative, quasi-legislative or discretionary consideration, as authorized by Government Code Section 65901. An application for consideration by a board of zoning adjustments or zoning administrator should apply a limited and fixed set of clear, predictable and objective standards without the application of discretionary conditions or public comment.

Chapter 1062 does not affect local government measures to keep the public apprised of pending applications and the status of the decision-making process. A local government should handle public noticing in the same manner as other ministerial actions. For example, if a local government allows new construction of a single-family residence by right or ministerially and public notice is not given for these applications, then a local government should employ the same procedures for second-unit applications. The appropriate point for public comment is the discretionary action adopting or amending a second-unit ordinance.

As explicitly stated in the provisions of 65852.2(a), a locality may require second-units to comply with development standards such as height, setback and architectural review. At the same time, architectural review should be handled in a ministerial fashion without discretionary public hearings or review. Architectural review in a ministerial fashion includes architectural standards and design guidelines with clear, fixed and objective standards. These standards should provide a

predictable concept of appropriate second-unit development. For example, the compatibility of the materials with the existing structure, exterior color, subordinate bulk or compatible exterior surface texture are architectural standards that can be applied in a ministerial manner, especially with the aid of design review guidelines. Architectural review standards should not impede the creation of second-units and should not detrimentally affect the feasibility or affordability of second-units.

Can a Locality Accept Appeals If a Second-unit Application Is Denied?

A locality can provide an appeal process for applicants whose second-unit proposal is denied. The appeal process should maintain predictable and fixed approval standards, consistent with the intent of Chapter 1062. Accordingly, an appeal should not include a public hearing with public comment as part of a discretionary decision. The appeal process should be handled in a ministerial and administrative manner and should be limited in scope, only considering the proposal's compliance with the objective standards of the second-unit ordinance.

Can a Locality Consider an Additional Process to Consider Second Units if the Standards Established by Chapter 1062 Have Been Met?

If a local ordinance is consistent with subdivisions (a) and (c-g) of second-unit law and consistent with the intent of the law, a local government could also adopt an ancillary set of broader standards under which second-units might be allowed under a discretionary review process as exceptions to existing zoning. While the statute does not preclude a broader and more flexible set of standards, localities must be very careful that any criteria or process for a secondary set of standards is only ancillary to the ministerial consideration required by Chapter 1062. Typical exceptions to zoning could be handled administratively or quasi-judicially.

Homeowners in the community are entitled to have a realistic opportunity to create second-units. If the locality fails to provide an adequate ministerial process pursuant to subdivision (a) and (c-g), applications for second-units should be subject to the State standards of subdivision (b) of Section 65852.2.

Is a Locality Required to Allow Second-Units in Multifamily Zones?

While second-units may be allowed in both single- and multi-family zones (Sections 65852.2(a)(1) and (b)(1)(B)), nothing in the statute requires more than one second-unit to be permitted on a single parcel. The State standards specifically require that the lot contain an existing single-family dwelling (Section 65852.2(b)(1)(C)) and localities could adopt a similar requirement. Alternatively localities could permit second-units on parcels containing, for example, a duplex. The guiding principle for the local ordinance should be to avoid provisions that are "...so arbitrary, excessive or burdensome so as to unreasonably restrict the ability of homeowners to create second-units in zones where they are authorized by local ordinance." (Section 65852.150). For example, second-units should not be arbitrarily excluded from appropriate geographic areas.

Are Second-Units Exempt from Local Growth Control?

Yes. Government Code Section 65852.2(a)(2) states second-units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth. Second-units must be exempt from growth control measures regardless of whether the growth control has been