



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: February 7, 2012
Placement: Set Hearing
Estimated Tme: 30 minutes on 2/21/12
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Glenn Russell, Ph.D. Director, Planning and Development
Director(s) (805) 568-2085
Contact Info: Alice McCurdy, Deputy Director, Development Review South
(805) 568-2518

SUBJECT: Dent Appeal of Montecito Planning Commission Approval of the Van Vliet Additions Project, Case No. 11APL-00000-00019, 1717 Fernald Point Lane, APN: 007-380-021

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

Set a hearing for February 21, 2012 to consider an appeal filed by Margaret Dent et al. (11APL-00000-00019) of the Montecito Planning Commission's August 24, 2011 approval of the Van Vliet residential addition, located at 1717 Fernald Point Lane, in the Montecito area, First Supervisorial District.

On February 21, 2012, your Board's action should include the following:

1. Deny the appeal, Case No. 11APL-00000-00019, thereby upholding the Montecito Planning Commission's approval of Case No. 11CDH-00000-00008.
2. Make the required findings for approval of the project, Case No. 11CDH-00000-00008, specified in Attachment-1 of this Board Agenda Letter.

3. 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-2 of this Board Agenda Letter).
4. Grant *de novo* approval the Coastal Development Permit subject to the conditions included as Attachment-3 of this Board Agenda Letter.

Summary Text:

Project and Site Development

The subject property is currently developed with a 3,302 square foot single story residence, an attached garage of approximately 658 square feet and a pool. The project approved by the Montecito Planning Commission (MPC) included construction of a 422 square foot second floor addition, 159 square feet of first floor additions and demolition of 83 square feet on the first floor. The approved project also included demolition and reconstruction of a pool with spa, 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.

Revised Project

The currently proposed project differs from the project approved by the MPC in that the pool and spa have been shifted slightly and the proposal now includes a 169 square foot carport addition. The proposed revised project continues to be consistent with all applicable policies and findings.

Background

The project was reviewed by the Montecito Board of Architectural Review (MBAR) on March 14, 2011 and April 25, 2011. The MBAR indicated their acceptance of the design in directing that the project could return for joint preliminary and final approval following MPC action on the project. On August 24, 2011 the MPC approved the project. The appellant submitted letters in opposition to the project to the MBAR (dated March 14, 2011) and the MPC (dated August 19, 2011). These same letters were submitted on September 6, 2011 as the basis for this appeal of the MPC's approval of the project. MBAR review was suspended until the appeal is resolved. A facilitation meeting was conducted between the applicant and appellant by County Counsel on October 27, 2011. No resolution of the appeal issues was reached at the facilitation meeting. See Attachment-8, the County Counsel Facilitation Report dated December 6, 2011.

Appeal Issues

Appeal issues are outlined in two letters attached to the appeal application, including a March 14, 2011 letter previously submitted to the MBAR and an August 19, 2011 letter previously submitted to the MPC. Appeal issues are discussed below. See Attachment-4, the Applicant's Appeal Application, received September 6, 2011.

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Issue 1-Second Story, Scenic Easement, Privacy

The appellant objects to a second story based on interference with privacy and asserts that the proposed 422 square foot second story addition would block views from the appellants private property to the mountains. The appellant further states that the second story addition would violate an easement for "scenic purposes."

While the Montecito Community Plan directs decision-makers to consider private views, County visual resource policies explicitly protect public views and not private views. The view that the appellant asserts would be blocked by the proposed second story addition is a private view. As discussed in the project findings included as Attachment-1 of this Board Agenda Letter, the proposed project would be in compliance with applicable visual resource protection policies and would not result in an adverse impact to public views of the beach or mountains. The easement referred to by the appellant is a private easement between the two properties described as being for "scenic purposes." The County does not enforce private easements or adjudicate private easement disputes; therefore this argument is not relevant as an appeal issue.

Issue 2-Access and Parking

The appellants' property is accessed via an easement over the applicants' property. The appellant requests a specific written protocol which guarantees open and uninterrupted access at all times by car and foot along the driveway and in the parking area within the private easement. The appellant also requests a project condition that would ensure the appellant uninterrupted access to their property. Lastly, the appellant asks that no construction parking occur on-site and states that the MBAR had "similar concerns" about parking.

As proposed, no part of the project would interfere with the access easement between the two properties, including the driveway and parking area. The April 25, 2011 MBAR minutes state, "[Regarding land use] architect and owner confirmed that parking during construction will not burden the easement to the neighbor," further confirming that there is no proposal or intention to block parking or access. The parking condition (Condition No. 3) approved by the Montecito Planning Commission states:

"The Construction Parking Plan shall include a construction timeline that indicates each phase of work to be 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. Traffic flaggers may be required if determined necessary by P&D staff upon review of the Parking Plan."

For purposes of clarification of the intent of Condition No. 3, staff recommends that the following language be added, "*Designated construction parking areas shall occur outside of the access easement to the adjacent property at 1711 Fernald Point Lane.*"

Because Fernald Point Lane is a narrow road and parking of construction vehicles along the road has the potential to impede road traffic and create safety hazards, the condition requires on-site parking to the maximum extent feasible. The condition also requires that the location of proposed on-site and off-site parking be graphically illustrated, allowing County staff to review the parking location and ensure that it does not interfere with access to the appellants' property or parking area. As revised, the proposed condition will adequately address access to the appellants' property.

Issue 3-Construction Noise and Debris

The appellant requests a specific written protocol and a specific project condition for noise and debris control and requests that construction hours be limited to 8:00 a.m. to 4:30 p.m. rather than the hours required by the existing condition, 7:00 a.m. and 4:30 p.m.

Condition No. 8 applied to the project as a part of the MPC approval includes a requirements that the site remain trash free throughout and after construction, that adequate trash receptacles be provided, that receptacles be picked up a minimum of once per week, that a specific contact person be designated that is responsible for site clean-up and that Building and Safety staff inspect the site periodically to confirm that the site is free of all trash and debris. This waste management condition is, itself, a specific and enforceable written protocol for debris control (as requested by the appellant) and therefore an additional separate protocol is not necessary.

Condition No. 4 limits noise generating construction to the hours between 7:00 a.m. and 4:30 p.m. and disallows noise generating construction on weekends and State holidays based upon Montecito Community Plan Development Standard N-M-1.1.1 (which specifically calls out 7:00 a.m. and 4:30 p.m. as the allowable construction time period). Staff recommends maintaining Condition No. 4 as written, as it would implement the applicable development standard identified in the Montecito Community Plan.

Condition No. 4, itself, represents a specific and enforceable written protocol (as requested by the appellant) and therefore an additional separate protocol is not necessary. The full language of all project conditions is included as Attachment-3 of this Board Agenda Letter.

Issue 4-Pool Equipment (Noise)

The appellant requests that the pool equipment be moved north, closer to the existing pool equipment on-site.

The proposed project includes demolition and reconstruction of a swimming pool and pool equipment. According to the Noise Element of the County Comprehensive Plan, 65 decibels is regarded as the maximum exterior noise exposure compatible with noise-sensitive uses (residential use is considered

noise-sensitive). Therefore noise emitted by pool equipment is limited to 65 decibels at the property line. The proposed project includes "quiet design" pool equipment which would be located 56 feet from the appellants' property. Specifications for the proposed pool equipment show that, at 10 feet away, the equipment would emit 58.3 decibels and would already be below the County threshold. At its location 56 feet away from the appellants' property line, the pool equipment would result in noise levels of approximately 34.3 decibels. For comparison, a soft whisper heard from 5 feet away is 30 decibels, the noise inside an average residence is 40 decibels and ordinary conversation is 60 decibels. Additionally, the equipment would also be enclosed, further attenuating noise. Therefore, noise emitted by the pool equipment would be well below the 65 decibel threshold established by the Noise Element and would be no greater than noise inside the average home. Because the existing location of the pool equipment meets and exceeds County noise protection policies, movement of the pool equipment further north does not appear necessary.

Issue 5-Lighting

The appellant requests submittal of a lighting plan prior to project approval.

In compliance with Montecito Community Plan Policy LU-M-2.2 (which requires that lighting be minimized to protect the semi-rural, residential character of the community) a lighting condition (Condition No. 7) applied to the project requires submittal of a lighting plan that requires that exterior night lighting be low intensity, low glare design, minimum height, and hooded to direct light downward onto the subject lot and prevent spill-over onto adjacent lots. The condition also requires that lights are dimmed after 10 p.m. The lighting plan would be included in the submittal to the MBAR for preliminary/final approval and review. Planning and Development staff would also review the lighting plan for conformance with the lighting condition prior to issuance of the Coastal Development Permit. Compliance with the required lighting condition ensures compliance with applicable lighting policies and therefore submittal of a lighting plan prior to project approval does not appear to be necessary.

Issue 6-Policy Analysis and Findings

The appellant states that the County has not addressed all required project findings/policy analysis and has not analyzed views of the project from the beach toward the mountains.

Visual resources analysis was provided in the original staff report to the Montecito Planning Commission (Attachment-6). Additional clarification and discussion of the project's consistency with applicable policies and findings was provided at the August 24, 2011 MPC hearing. Please refer to the MPC Action Letter (Attachment-5) and P&D's Memo to the Montecito Planning Commission, dated August 23, 2011 (Attachment-7) for this additional discussion. Specifically, the policy analysis and findings provide detailed view impact analysis and a conclusion that the proposed development would not significantly obstruct views from any public viewing area to the coast or mountains. The staff report and staff memo address all required findings for approval of the project and provide an extensive discussion of applicable policies under multiple issue areas.

Issue 7-Non-conforming Parcel Size

The appellant asserts that the County should not permit additional development of the parcel because, at .42 acres, it does not meet the existing minimum parcel size of 1.0-acre. The appellant also states that development should not be approved because the property contains a residence and “several out buildings.”

At .42-acres in size, the property is legal nonconforming as to parcel size. Minimum parcel size is established in order to guide the creation of new lots and is not intended to prevent reasonable development of existing properties. Numerous properties within Santa Barbara County are nonconforming as to size. These properties are routinely issued permits for development. To deny development on the subject property because it is nonconforming as to size would potentially limit reasonable development of the property and would be inconsistent with the treatment of other nonconforming properties within Santa Barbara County. The property contains no outbuildings. Total additions proposed include a 422 square foot second floor addition, 159 square feet of first floor additions and a 169 square foot carport addition. An 83 square foot storage area attached to the residence would be demolished. As discussed in the staff report and the memo to the MPC dated August 23, 2011, the proposed project is consistent with all applicable requirements of the Article II Coastal Zoning Ordinance and the Comprehensive Plan. Therefore, staff continues to recommend approval of the proposed additions.

Issue 8-Change from MBAR Review

The appellant states that changes were made to the project between MBAR and MPC review that increased the project size and that it is unclear if those changes would affect the MBAR’s conclusion regarding the project.

The project was reviewed by the MBAR on March 14, 2011 and April 25, 2011. The project discussed at those meetings included construction of a 396 square foot second story addition, 139 square feet of first floor additions and no demolition for a total of 535 square feet. The project approved by the MPC included demolition of an 83 square foot first floor storage area, construction of a 422 square foot second floor addition and construction of 159 square feet of first floor additions, for a total of 518 square feet. Therefore, while the location of additions/demolition changed slightly, the overall square footage actually decreased between review at the MBAR and approval by the MPC. Additionally, the MBAR will have the opportunity to review minor project changes at the preliminary and final review stage that follows Coastal Development Permit approval.

Minor project changes commonly occur between conceptual architectural review and review/approval by the MPC. The concern on the part of the appellants regarding square footage changes was presented to and considered by the MPC, who did not request that the project be remanded back to the MBAR for further comment prior to their decision to approve the project.

Summary and Recommendations

Appeal issues raised by the appellant are either outside the purview of the County (i.e. enforcement of easements between private parties) and/or have been adequately addressed through existing project conditions, findings and consistency analysis. Based upon the analysis presented in the "Appeal Issues" section above, staff recommends de novo approval of the proposed project in its revised form.

Performance Measure:

N/A

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

No appeal fees are required for appeals of projects in the appeals jurisdiction of the Coastal Zone. The estimated staff cost to process the appeal is approximately \$4,600 (25 planner hours). Permit revenues are budgeted in the Permitting and Compliance Division of the Development Review South Division, on page D-314 of the adopted 2011-2012 fiscal year budget.

Staffing Impacts:

None

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on February 21, 2012. The notice shall appear in the Santa Barbara Daily Sound. The Clerk of the Board shall fulfill the noticing requirements. Mailing labels for the mailed notice are attached. The Clerk of the Board shall provide a copy of the notice, proof of publication and minute order to P&D, attention David Villalobos.

Attachments:

- Attachment 1: Findings
- Attachment 2: CEQA Exemption
- Attachment 3: Conditions of Approval
- Attachment 4: Applicant's Appeal Application, received September 6, 2011
- Attachment 5: Montecito Planning Commission's Action Letter (including Findings and Conditions), dated August 26, 2011
- Attachment 6: P&D's Staff Report to the Montecito Planning Commission (including CEQA Exemption) dated August 5, 2011

Attachment 7: P&D's Memo to the Montecito Planning Commission, dated August 23, 2011

Attachment 8: County Counsel Facilitation Report, dated December 6, 2011

Authored by:

Nicole Lieu, Planner, Development Review-South Division, P&D, (805) 884-8068

Attachment 1

Findings

ATTACHMENT 1: 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-2, 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 this Board Letter (dated February 7, 2012), Sections 6.2 and 6.3 of the Staff Report (dated August 5, 2011) and the Staff Memo to the Montecito Planning Commission (dated August 23, 2011), 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 this Board Letter (dated February 7, 2012), Sections 6.2 and 6.3 of the Staff Report (dated August 5, 2011) and the Staff Memo to the Montecito Planning Commission (dated August 23, 2011), 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, 159 square feet of first floor additions and a 169 square foot carport addition. 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 proposed residential additions were 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 this Board Letter (dated February 7, 2012), Sections 6.2 and 6.3 of the Staff Report (dated August 5, 2011) and the Staff Memo to the Montecito Planning Commission (dated August 23, 2011), 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 2
CEQA Exemption

**ATTACHMENT-2
NOTICE OF EXEMPTION**

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Nicole Lieu, Planning & Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: 007-380-021

Case No.: 11CDH-00000-00008

Location: 1717 Fernald Point Lane

Project Title: Van Vliet Addition

Project Description: 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, a 169 square foot carport addition, 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.

Name of Public Agency Approving Project: County of Santa Barbara
Name of Person or Agency Carrying Out Project: Jennifer Foster

Exempt Status: (Check one)

- Ministerial
 Statutory Exemption
 Categorical Exemption
 Emergency Project

Cite specific CEQA and/or CEQA Guideline Section: 15301(e)

Reasons to support exemption findings: State CEQA Guidelines Section 15301(e) [existing facilities] exempts: "*Additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.*" The proposed 29 square foot first floor residential addition, 422 square foot second floor residential addition, 130 square foot garage addition, and a 169 square foot carport addition (for a total of 750 additional square feet) would be less than 50 percent of the existing 3,302 square foot residence and less than 2,500 square feet. There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The applicable exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The proposed 29 square foot first floor residential addition, 422 square foot second floor residential addition, a 130 square foot garage addition and a 169 square foot carport addition. The cumulative impact of construction of similar additions within the project neighborhood would not be significant. Successive construction further additions to the subject residence would be limited by applicable ordinance provisions for setbacks, accessory structures, etc. Therefore the overall impact of successive projects of the same type in the same place, over time would not be significant.

- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The proposed additions would not be located in a sensitive resource area and would not block significant public views. There is no reasonable possibility that the proposed additions will result in a significant effect on the environment due to unusual circumstances.

- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

The subject property is not visible from an officially designated state scenic highway. Therefore, there is no potential for the project to result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

The project is not located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

There are no known historical resources on the subject property. Therefore, the project would not have the potential to cause a substantial adverse change in the significance of a historical resource.

Lead Agency Contact Person: Nicole Lieu

Phone #: (805) 884-8068

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

distribution: Hearing Support Staff

Project file (when P&D permit is required)
Date Filed by County Clerk: _____.

Attachment 3

Conditions of Approval

ATTACHMENT 3: 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, 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, a 169 square foot carport addition, 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. Designated construction parking areas shall occur outside of the access easement to the adjacent 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.

Attachment 4

Applicant's Appeal Application

Received September 6, 2011



PLANNING & DEVELOPMENT
APPEAL FORM

COUNTY OF SANTA BARBARA
OFFICE OF THE
SUPERVISOR
27 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):

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

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

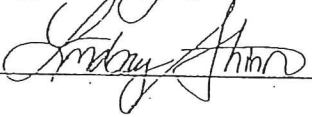
CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

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
Date

Print name and sign - Preparer of this form

N/A

Print name and sign - Applicant

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

Print name and sign - Agent

N/A

Print name and sign - Landowner

Date



COUNTY OF SANTA BARBARA

Planning and Development

www.sbcountyplanning.org

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

Supervisorial District: 1

Acreege

0.42

Reference Owner

VAN VLIET, ALAN E

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

Case Number	Dept	Filed	Planner	Project Name or Work Description	Status
11BAR-00000-00024	P	2/15/11	SF	VAN VLIET SFD ADDITION	Conceptual Review
11CDH-00000-00008	P	2/15/11	NL	VAN VLIET SFD ADDITION	Appeal Period In Pro
11CUP-00000-00011	P	3/18/11	NL	VAN VLIET WALL/GATE	Awaiting Applicant A

LIX Building Cases

Application Number	Description	Issuance Date	Action Date	Status	Misc.
128720	RMDL(R)	04/24/89	02/15/90	F	E
264900	SW POOL	04/21/98	06/10/98	F	

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

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.

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

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. Shinn 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
GRAHAM M. LYONS
RAFAEL GONZALEZ
JANA S. JOHNSTON
LINDSAY G. SHINN
ROBERT D. DOMINGUEZ
JENNIFER S. ADKINS
JARED A. GREEN

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



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,

A handwritten signature in black ink, appearing to read 'Charles S. Bargiel'.

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

CSB:lch

Attachment 5

Montecito Planning
Commission Action Letter



COUNTY OF SANTA BARBARA
CALIFORNIA

MONTECITO PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU STREET
SANTA BARBARA, CALIFORNIA 93101-2058
PHONE: (805) 568-2000
FAX: (805) 568-2030

u
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.

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 122-159 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 off-site 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.

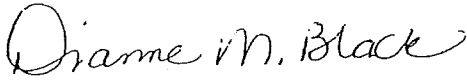
The attached findings and conditions reflect the Montecito Planning Commission's actions of August 24, 2011.

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.

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

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 be completed, the location of 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.

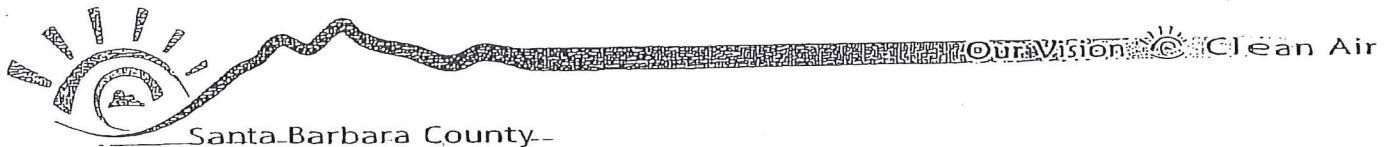
TIMING: Prior to building permit issuance, the Owner/Applicant shall designate and provide P&D with the name and phone number of a contact person(s) responsible for trash prevention and site clean-up. Additional covered receptacles shall be provided as determined necessary by P&D.

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.



Santa Barbara County
Air Pollution Control District

March 4, 2011

Nicole Lieu
Santa Barbara County
Planning and Development
123 E. Anapamu Street
Santa Barbara, CA 93101

Re: APCD Comments on Van Vliet SFD Addition, 11CDH-00000-00008

Dear Ms. Lieu:

The Air Pollution Control District (APCD) has reviewed the referenced case, which consists of a 450 square foot addition to an existing 3,302 square foot single-family dwelling, and a 130 square foot addition to an existing 450 square foot garage. Also proposed are changes to the siding and roof materials, and demolition of an existing pool and construction of a new pool. Grading for the project consists of 72 cubic yards of cut and 72 cubic yards of fill. The subject property, a 0.42-acre parcel zoned 1-E-1 and identified in the Assessor Parcel Map Book as APN 007-380-021, is located at 1717 Fernald Point Lane in the unincorporated community of Montecito.

Air Pollution Control District staff offers the following suggested conditions:

1. Standard dust mitigations (**Attachment A**) are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.
2. APCD Rule 345, *Control of Fugitive Dust from Construction and Demolition Activities*, became effective on July 21, 2010 and establishes new limits on the generation of visible fugitive dust emissions at demolition and construction sites. The rule includes measures for minimizing fugitive dust from on-site activities and from trucks moving on- and off-site. The text of the rule can be viewed on the APCD website at www.sbapcd.org/rules/download/rule345.pdf.
3. Fine particulate emissions from diesel equipment exhaust are classified as carcinogenic by the State of California. Therefore, during project grading, construction, and hauling, construction contracts must specify that contractors shall adhere to the requirements listed in **Attachment B** to reduce emissions of ozone precursors and fine particulate emissions from diesel exhaust.
4. Advisory: The applicant should determine whether any structure(s) proposed for demolition or renovation contains asbestos that is friable or has the potential to become friable during demolition or disposal. If any structure does contain friable asbestos, the asbestos should be removed by a contractor that is state certified for asbestos removal. For additional information regarding asbestos in construction, please refer to APCD's website at www.sbapcd.org/biz/asbestos.htm.

If you or the project applicant have any questions regarding these comments, please feel free to contact me at (805) 961-8893 or via email at edg@sbcapcd.org.

Sincerely,



Eric Sage,

Air Quality Specialist

Technology and Environmental Assessment Division

Attachments: Fugitive Dust Control Measures
Diesel Particulate and NO_x Emission Measures

cc: Jennifer Foster
Project File
TEA Chron File



ATTACHMENT A
FUGITIVE DUST CONTROL MEASURES

These measures are required for all projects involving earthmoving activities regardless of the project size or duration. Proper implementation of these measures is assumed to fully mitigate fugitive dust emissions.

- During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
- Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
- If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
- Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
- After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.

Plan Requirements: All requirements shall be shown on grading and building plans and as a note on a separate information sheet to be recorded with map. **Timing:** Requirements shall be shown on plans or maps prior to land use clearance or map recordation. Condition shall be adhered to throughout all grading and construction periods.

MONITORING: Lead Agency shall ensure measures are on project plans and maps to be recorded. Lead Agency staff shall ensure compliance onsite. APCD inspectors will respond to nuisance complaints.



ATTACHMENT B
DIESEL PARTICULATE AND NO_x EMISSION MEASURES

Particulate emissions from diesel exhaust are classified as carcinogenic by the state of California. The following is an updated list of regulatory requirements and control strategies that should be implemented to the maximum extent feasible.

The following measures are required by state law:

- All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
- All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.

The following measures are recommended:

- Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- Diesel powered equipment should be replaced by electric equipment whenever feasible.
- If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- All construction equipment shall be maintained in tune per the manufacturer's specifications.
- The engine size of construction equipment shall be the minimum practical size.
- The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.
- Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

Plan Requirements: Measures shall be shown on grading and building plans. Timing: Measures shall be adhered to throughout grading, hauling and construction activities.

MONITORING: Lead Agency staff shall perform periodic site inspections to ensure compliance with approved plans. APCD inspectors shall respond to nuisance complaints.



583 San Ysidro Road
Santa Barbara, CA 93108
(805) 969-2271

**MONTECITO WATER DISTRICT
CERTIFICATE OF WATER SERVICE AVAILABILITY**

RECEIVED

To the County Planning Department of Santa Barbara:

Montecito Water District has received the following application for water service availability:

Date of Application	02/15/11
Name of Applicant	Jennifer Foster
Property Owner (if different from applicant)	Alan & Kathryn Van Vliet
Water Service Address	1717 Fernald Point Lane
Assessor's Parcel Number	007-380-021
Parcel/property size	0.42
Brief Project description	SFR addition of 450 sq ft; garage addition of 130 sq ft; demo pool; new covered pool & spa
Permit(s) applied for	B/P

MAR 24 2011
S.B. COUNTY
PLANNING & DEVELOPMENT

Having reviewed application and architectural plans by Cary W Gepner & Assoc, Architects, dated 02/10/11 and having considered the District's available water supply the District hereby notifies your office that the District can and will serve the subject property in accordance with Montecito Water District Ordinance 89 and the following limitations:

1. The available quantity of water shall be in accordance with the terms and conditions in paragraph 3 of Ordinance 89.
2. Service to be provided through existing 1-inch water service.
3. Property owner must enter into agreement with District to install the following facilities to connect with District's existing service: None
4. Applicant shall be responsible for the following fees, payable immediately upon issuance of this Certificate: None
5. Applicant must provide the following additional documents for District approval: None
6. Applicant agrees to install state-of-the-art water-saving technologies and to use no more water than is authorized under this Certificate. Applicant acknowledges that the District may increase the rate for all water delivered in excess of the property's Maximum Available Quantity and/or limit service to the property to no more than the Maximum Available Quantity, but the District shall provide at all times a supply of water sufficient to meet the health and safety needs of the property's occupants.
7. The Maximum Available Quantity of water has been determined pursuant to District Ordinance 89. Ordinance 89 provides that, under certain circumstances, a property owner may request a redetermination of the Maximum Availability Quantity. Should such a redetermination result in an increase in the Maximum Available Quantity, the District will issue an Amended Certificate.
8. This Certificate represents a determination of water availability as of the date of the Application. The District's provision of water shall be contingent upon the property owner's completion of all obligations to the District associated with the Project identified herein and shall remain subject, at all times, to the District's ordinances and requirements.

MONTECITO WATER DISTRICT

PROPERTY OWNER / APN 007-380-021

Dated March 2, 2010

By [Signature]
Tom Mosby, General Manager

By [Signature]
Alan & Kathryn Van Vliet

Attachment 6

Planning and Development Staff Report to Montecito Planning Commission

(dated August 5, 2011)

**MONTECITO PLANNING COMMISSION
Coastal Zone Staff Report: Van Vliet Addition**

Hearing Date: August 24, 2011
Staff Report Date: August 5, 2011
Case No.: 11CDH-00000-00008
Environmental Document: CEQA Section 15301(e)

Alice McCurdy
Deputy Director: Alice McCurdy
Division: Development Review-South
Supervising Planner: Anne Almy
Supervising Planner Phone #: 568-2053
Planner Contact: Nicole Lieu
Planner's Phone #: 884-8068

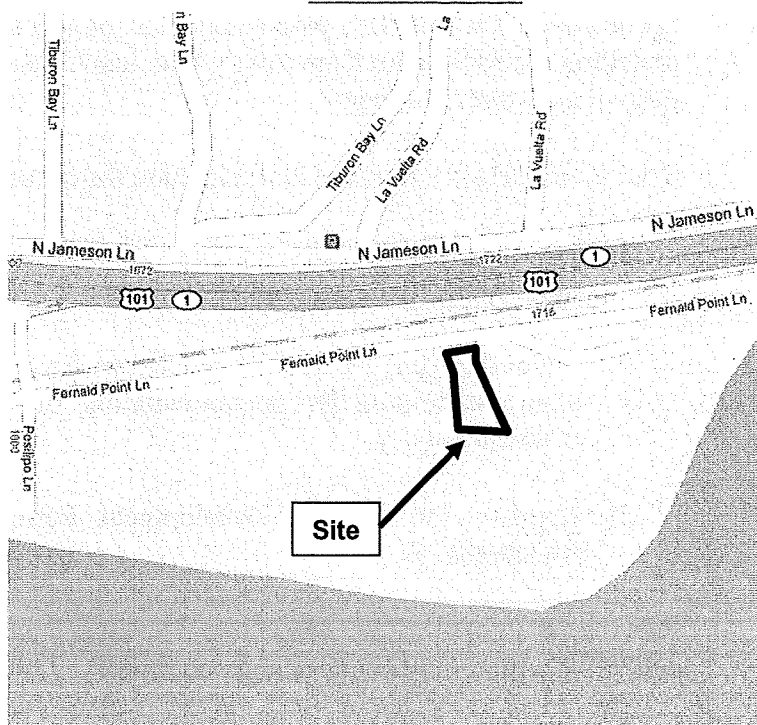
OWNER/APPLICANT:

Alan and Kathryn Van Vliet
1717 Fernald Point Lane
Santa Barbara CA 93108

AGENT/ENGINEER:

Jennifer Foster
P.O. Box 591
Summerland CA 93067
(805) 565-8522

VICINITY MAP



This site is identified as Assessor Parcel Number 007-380-021, 1717 Fernald Point Lane, Montecito Area, First Supervisorial District

Application Complete: May 19, 2011
Processing Deadline: 60 days from NOE

1.0 REQUEST

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 from CEQA pursuant to Section 15301(e). The application involves AP No. 007-380-021, located at 1717 Fernald Point Lane, in the Montecito area, First Supervisorial District.

2.0 RECOMMENDATION AND PROCEDURES

Follow the procedures outlined below and conditionally approve Case No. 11CDH-00000-00008 marked "Officially Accepted, County of Santa Barbara August 24, 2011 Montecito Planning Commission Exhibit #1", based upon the project's consistency with the Comprehensive Plan, including the Montecito Community Plan and Coastal Land Use Plan, and based on the ability to make the required findings.

Your Commission's motion should include the following:

1. Make the required findings for approval of the project specified in Attachment-A of this staff report, including CEQA findings.
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).
3. Approve the Coastal Development Permit subject to the conditions included as Attachment-B.

Refer back to staff if the Montecito Planning Commission takes other than the recommended action for appropriate findings and conditions.

3.0 JURISDICTION

Pursuant to the Santa Barbara County Code, Chapter 2 Section 2-25.2(a), the Montecito Planning Commission shall assume the powers and duties given to the Zoning Administrator in Article II of Chapter 35 within the Montecito Planning Area. These provisions require that projects in the Montecito Planning Area be heard by the Montecito Planning Commission rather than the Zoning Administrator.

This project is being considered by the Montecito Planning Commission based upon Section 35-169.5.3 of Article II which states, "*The Zoning Administrator shall hold at least one noticed public hearing, unless waived, on the requested Coastal Development Permit and either approve, conditionally approve, or deny the request.*"

4.0 ISSUE SUMMARY

The proposed project is for first and second story additions and demolition to sections of an existing residence and garage, resulting in the addition of 498 total square feet. The project also includes demolition and reconstruction of a pool, new entry gates and new landscaping. The proposed development is located one lot inland from the beach and would not block views to or along the beach. Public access to the beach would continue to be available via Posilipo Lane, located approximately .2 miles west of the subject property. The project would include new "quiet design" pool equipment, resulting in noise levels well below those allowable under the County Noise Element.

5.0 PROJECT INFORMATION

5.1 Site Information

Site Information	
Comprehensive Plan Designation	Urban, Coastal Zone, SRR-1.0, Single Family Semi-Rural Residential, one dwelling unit per acre
Zone	1-E-1, Single Family Residential, 1-acre minimum parcel size, Coastal Commission appeals jurisdiction
Site Size	.42-acres
Present Use & Development	Single Family Residential
Surrounding Uses/Zoning	<i>North:</i> Railroad tracks and HWY 101, TC <i>South:</i> Single Family Residential, 1-E-1 <i>East:</i> Single Family Residential, 1-E-1 <i>West:</i> Single Family Residential, 1-E-1
Access	Via Fernald Point Lane
Public Services	Water Supply: Montecito Water District Sewage: Montecito Sanitary District Fire: Montecito Fire District

5.4 Description

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.

5.5 Background Information

The subject property is shown as Lot B on Record of Survey Book 69, Page 57, dated May 1965.

6.0 PROJECT ANALYSIS

6.1 Environmental Review

The project can be found categorically exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to Section 15301(e) of the State CEQA Guidelines. See Attachment-C for a more detailed discussion.

6.2 Comprehensive Plan Consistency

REQUIREMENT	DISCUSSION
<p><i>Coastal Land Use Plan Policy 2-6. Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. ...</i></p>	<p>Consistent: 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, the project is consistent with this requirement.</p>
<p><i>Coastal Act Policy 30211. Development shall not interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.</i></p>	<p>Consistent: 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 access would continue to be available via Posilipo Lane, located approximately .2 miles west of the subject property.</p>
<p><i>Montecito Community Plan Policy N-M-1.1: Noise-sensitive uses (i.e., residential and lodging facilities, educational facilities, public meeting places and others specified in the Noise Element) shall be protected from significant noise impacts.</i></p>	<p>Consistent: The proposed project includes relocation of a swimming pool and pool equipment. The proposed new "quiet design" pool equipment would emit noise levels of 58.3 decibels at 10 feet from the equipment. According to the Noise Element of the County</p>

REQUIREMENT	DISCUSSION
	<p>Comprehensive Plan, 65 decibels is regarded as the maximum exterior noise exposure compatible with noise-sensitive uses (residential use is considered noise-sensitive). The proposed pool equipment would be located more than 10 feet from all property lines and 56 feet from the southern property line. Therefore, noise at all property lines would be well below the 65 decibel threshold established by the Noise Element. The equipment would also be enclosed, further attenuating noise. Therefore, the proposed project is consistent with Montecito Community Plan Policy N-M-1.1.</p>
<p>Montecito Community Plan Development Standard N-M-1.1.1: <i>All site preparation and associated exterior construction activities related to new residential units including remodeling, demolition, and reconstruction, shall take place between 7:00 a.m. and 4:30 p.m., weekdays only.</i></p>	<p>Consistent: In compliance with Development Standard N-M-1.1.1, the project has been conditioned to require that all noise generating construction occur between 7:00 a.m. and 4:30 p.m., weekdays only.</p>
<p>Montecito Community Plan Policy LU-M-2.2: <i>Lighting of structures, roads and properties shall be minimized to protect privacy, and to maintain the semi-rural, residential character of the community.</i></p>	<p>Consistent: In compliance with Community Plan Policy LU-M-2.2, the project has been conditioned to require that lighting installed on the project site is of low intensity, low glare design, minimum height, and hooded to direct light downward onto the subject parcel.</p>
<p>Montecito Community Plan Policy LU-M-1.1: <i>Architectural and development guidelines shall be adopted, implemented, and enforced by the County in order to preserve, protect and enhance the semi-rural environment of Montecito and the natural mountainous setting.</i></p> <p>Montecito Architectural Guidelines Section III. G. 3:</p> <p>a. <i>Building materials and colors should minimize the visual impact of the structure from public roads and lanes,</i></p>	<p>Consistent: In compliance with Community Plan Policy LU-M-1.1 and with the requirements of the Montecito Architectural Guidelines and Development Standards, the project has been conditioned to require that building materials be non-reflective and that they be compatible with the surrounding environment.</p>

REQUIREMENT	DISCUSSION
<p><i>blend with existing land forms and vegetative cover, be compatible with others in the neighborhood, and not attract attention to themselves.</i></p> <p><i>i. There should be consistency of materials, color, and composition on all sides of a structure.</i></p> <p><i>ii. Materials with a high reflectivity value (excluding windows) should be avoided.</i></p> <p><i>iii. Various elements of a project should be harmonious in architectural detail, color and material.</i></p>	
<p>Montecito Community Plan Policy CIRC-M-1.4: <i>The County shall strive to permit reasonable development of parcels within the community of Montecito based upon the policies and land use designations adopted in this Community Plan, while maintaining safe roadways and intersections that operate at acceptable levels.</i></p>	<p>Consistent: The proposed development would result in no long term change to traffic levels along Fernald Point Road. In order to avoid temporary impacts to the travel lanes along Fernald Point Road during construction, the project has been conditioned to require preparation of a Construction Parking Plan.</p>
<p>Montecito Community Plan Policy BIO-M-1.20: <i>Pollution of streams, sloughs, drainage channels, underground water basins, estuaries, the ocean and areas adjacent to such waters shall be minimized.</i></p>	<p>Consistent: The subject property is located approximately 220 feet from a drainage that outlets to the ocean and approximately 500 feet from the ocean. In order to prevent potential water pollution as a result of construction, the project has been conditioned to require designation of a washout area to prevent wash water from discharging into nearby water bodies.</p>

6.3 Zoning: Article II

The subject property is zoned 1-E-1. Pursuant to Article II, Section 35-71.1 the purpose of the E-1 zone district is to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health, welfare, and safety. It is the intent of the district to protect the residential characteristics of an area and to promote a suitable environment for family life. The proposed project would be consistent with the purpose and intent of the E-1 zone district because it would allow expansion of an existing residential structure, demolition and reconstruction of a residential-use pool, and the construction of a wall that would provide privacy and screening for the existing residential use, consistent with sound standards of public health, welfare, and safety. The project would be in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, and setbacks of the Article II Coastal Zoning Ordinance.

6.4 Subdivision/Development Review Committee

The project was reviewed by the Subdivision and Development Review Committee (SDRC) on March 3, 2011. At the meeting, Building and Safety staff indicated that full plan submittal would be required time of Building Permit application. The Air Pollution Control District indicated that the project would be conditioned for standard dust control and diesel emission reductions and issued a condition letter dated March 4, 2011 with those requirements. Flood Control staff noted that the applicant would need to provide a Non-Substantial Improvement justification to Flood Control. The applicant provided this justification and Flood Control issued a letter, dated April 20, 2011, noting that the project would not be considered a "substantial improvement." Flood Control also noted that they would require no further conditions or review requirements. This letter is in the project case file and is available for review. The remaining SDRC members had no questions, comments or conditions.

6.5 Design Review

The project was reviewed on March 14, 2011 and April 25, 2011 by the Montecito Board of Architectural Review (MBAR). The April 25th MBAR meeting included a site visit to the property to view story poles for the proposed 422 square foot second story addition. Ultimately, the MBAR found that the, "*proposed increase in height is fairly modest, as proven by story poles*" and that they are "*comfortable with mass, scale and height.*" Please see Attachment-D for full MBAR minutes.

7.0 APPEALS PROCEDURE

- The action of the Planning Commission may be appealed to the Board of Supervisors within ten (10) calendar days of said action. Since this development is appealable to the Coastal Commission under Section 35-182.6, no appeal fee will be charged.
- The action of the Board of Supervisors may be appealed to the Coastal Commission within ten (10) working days of receipt by the Coastal Commission of the County's notice of final action.

ATTACHMENTS

- A. Findings
- B. Conditions of Approval with attached Departmental Letters
- C. CEQA Exemption
- D. MBAR Minutes
- E. APN Sheet
- F. Site Plan



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 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. 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 130 square foot garage addition. 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. 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. 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.



**Santa Barbara County
Air Pollution Control District**

March 4, 2011

Nicole Lieu
Santa Barbara County
Planning and Development
123 E. Anapamu Street
Santa Barbara, CA 93101

Re: APCD Comments on Van Vliet SFD Addition, 11CDH-00000-00008

Dear Ms. Lieu:

The Air Pollution Control District (APCD) has reviewed the referenced case, which consists of a 450 square foot addition to an existing 3,302 square foot single-family dwelling, and a 130 square foot addition to an existing 450 square foot garage. Also proposed are changes to the siding and roof materials, and demolition of an existing pool and construction of a new pool. Grading for the project consists of 72 cubic yards of cut and 72 cubic yards of fill. The subject property, a 0.42-acre parcel zoned 1-E-1 and identified in the Assessor Parcel Map Book as APN 007-380-021, is located at 1717 Fernald Point Lane in the unincorporated community of Montecito.

Air Pollution Control District staff offers the following suggested conditions:

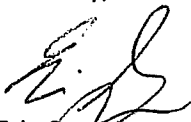
1. Standard dust mitigations (**Attachment A**) are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.
2. APCD Rule 345, *Control of Fugitive Dust from Construction and Demolition Activities*, became effective on July 21, 2010 and establishes new limits on the generation of visible fugitive dust emissions at demolition and construction sites. The rule includes measures for minimizing fugitive dust from on-site activities and from trucks moving on- and off-site. The text of the rule can be viewed on the APCD website at www.sbapcd.org/rules/download/rule345.pdf.
3. Fine particulate emissions from diesel equipment exhaust are classified as carcinogenic by the State of California. Therefore, during project grading, construction, and hauling, construction contracts must specify that contractors shall adhere to the requirements listed in **Attachment B** to reduce emissions of ozone precursors and fine particulate emissions from diesel exhaust.
4. Advisory: The applicant should determine whether any structure(s) proposed for demolition or renovation contains asbestos that is friable or has the potential to become friable during demolition or disposal. If any structure does contain friable asbestos, the asbestos should be removed by a contractor that is state certified for asbestos removal. For additional information regarding asbestos in construction, please refer to APCD's website at www.sbapcd.org/biz/asbestos.htm.

March 4, 2011

Page 2

If you or the project applicant have any questions regarding these comments, please feel free to contact me at (805) 961-8893 or via email at edg@sbcapcd.org.

Sincerely,



Eric Gage,

Air Quality Specialist

Technology and Environmental Assessment Division

Attachments: Fugitive Dust Control Measures
Diesel Particulate and NO_x Emission Measures

cc: Jennifer Foster
Project File
TEA Chron File



ATTACHMENT A
FUGITIVE DUST CONTROL MEASURES

These measures are required for all projects involving earthmoving activities regardless of the project size or duration. Proper implementation of these measures is assumed to fully mitigate fugitive dust emissions.

- During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
- Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
- If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
- Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
- After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.

Plan Requirements: All requirements shall be shown on grading and building plans and as a note on a separate information sheet to be recorded with map. **Timing:** Requirements shall be shown on plans or maps prior to land use clearance or map recordation. Condition shall be adhered to throughout all grading and construction periods.

MONITORING: Lead Agency shall ensure measures are on project plans and maps to be recorded. Lead Agency staff shall ensure compliance onsite. APCD inspectors will respond to nuisance complaints.



ATTACHMENT B
DIESEL PARTICULATE AND NO_x EMISSION MEASURES

Particulate emissions from diesel exhaust are classified as carcinogenic by the state of California. The following is an updated list of regulatory requirements and control strategies that should be implemented to the maximum extent feasible.

The following measures are required by state law:

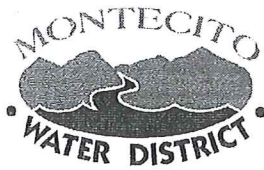
- All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
- All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.

The following measures are recommended:

- Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- Diesel powered equipment should be replaced by electric equipment whenever feasible.
- If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- All construction equipment shall be maintained in tune per the manufacturer's specifications.
- The engine size of construction equipment shall be the minimum practical size.
- The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.
- Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

Plan Requirements: Measures shall be shown on grading and building plans. **Timing:** Measures shall be adhered to throughout grading, hauling and construction activities.

MONITORING: Lead Agency staff shall perform periodic site inspections to ensure compliance with approved plans. APCD inspectors shall respond to nuisance complaints.



583 San Ysidro Road
Santa Barbara, CA 93108
(805) 969-2271

**MONTECITO WATER DISTRICT
CERTIFICATE OF WATER SERVICE AVAILABILITY**

RECEIVED
MAY 24 2011
S.B. COUNTY
PLANNING & DEVELOPMENT

To the County Planning Department of Santa Barbara:


Montecito Water District has received the following application for water service availability:

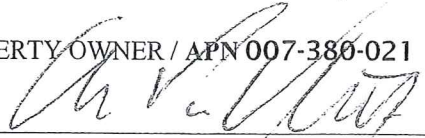
Date of Application	02/15/11
Name of Applicant	Jennifer Foster
Property Owner (if different from applicant)	Alan & Kathryn Van Vliet
Water Service Address	1717 Fernald Point Lane
Assessor's Parcel Number	007-380-021
Parcel/property size	0.42
Brief Project description	SFR addition of 450 sq ft; garage addition of 130 sq ft; demo pool; new covered pool & spa
Permit(s) applied for	B/P

Having reviewed application and architectural plans by Cary W Gepner & Assoc, Architects, dated 02/10/11 and having considered the District's available water supply the District hereby notifies your office that the District can and will serve the subject property in accordance with Montecito Water District Ordinance 89 and the following limitations:

1. The available quantity of water shall be in accordance with the terms and conditions in paragraph 3 of Ordinance 89.
2. Service to be provided through **existing 1-inch water service**.
3. Property owner must enter into agreement with District to install the following facilities to connect with District's existing service: **None**
4. Applicant shall be responsible for the following fees, payable immediately upon issuance of this Certificate: **None**
5. Applicant must provide the following additional documents for District approval: **None**
6. Applicant agrees to install state-of-the-art water-saving technologies and to use no more water than is authorized under this Certificate. Applicant acknowledges that the District may increase the rate for all water delivered in excess of the property's Maximum Available Quantity and/or limit service to the property to no more than the Maximum Available Quantity, but the District shall provide at all times a supply of water sufficient to meet the health and safety needs of the property's occupants.
7. The Maximum Available Quantity of water has been determined pursuant to District Ordinance 89. Ordinance 89 provides that, under certain circumstances, a property owner may request a redetermination of the Maximum Availability Quantity. Should such a redetermination result in an increase in the Maximum Available Quantity, the District will issue an Amended Certificate.
8. This Certificate represents a determination of water availability as of the date of the Application. The District's provision of water shall be contingent upon the property owner's completion of all obligations to the District associated with the Project identified herein and shall remain subject, at all times, to the District's ordinances and requirements.

Dated March 2, 2010

MONTECITO WATER DISTRICT
By 
Tom Mosby, General Manager

PROPERTY OWNER / APN 007-380-021
By 
Alan & Kathryn Van Vliet



**ATTACHMENT-C
NOTICE OF EXEMPTION**

TO: Santa Barbara County Clerk of the Board of Supervisors
FROM: Nicole Lieu, Planning & Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: 007-380-021

Case No.: 11CDH-00000-00008

Location: 1717 Fernald Point Lane

Project Title: Van Vliet Addition

Project Description: 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.

Name of Public Agency Approving Project: County of Santa Barbara
Name of Person or Agency Carrying Out Project: Jennifer Foster

Exempt Status: (Check one)

- Ministerial
 Statutory Exemption
 Categorical Exemption
 Emergency Project

Cite specific CEQA and/or CEQA Guideline Section: 15301(e)

Reasons to support exemption findings: State CEQA Guidelines Section 15301(e) [existing facilities] exempts: *"Additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less."* The proposed 29 square foot first floor residential addition, 422 square foot second floor residential addition and 130 square foot garage addition (for a total of 580 additional square feet) would be less than 50 percent of the existing 3,302 square foot residence and less than 2,500 square feet. There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. There is no substantial evidence

that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The applicable exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The proposed 29 square foot first floor residential addition, 422 square foot second floor residential addition and 130 square foot garage addition. The cumulative impact of construction of similar additions within the project neighborhood would not be significant. Successive construction further additions to the subject residence would be limited by applicable ordinance provisions for setbacks, accessory structures, etc. Therefore the overall impact of successive projects of the same type in the same place, over time would not be significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The proposed additions would not be located in a sensitive resource area and would not block significant public views. There is no reasonable possibility that the proposed additions will result in a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The subject property is not visible from an officially designated state scenic highway. Therefore, there is no potential for the project to result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

The project is not located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

There are no known historical resources on the subject property. Therefore, the project would not have the potential to cause a substantial adverse change in the significance of a historical resource.

Lead Agency Contact Person: Nicole Lieu Phone #: (805) 884-8068

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

distribution: Hearing Support Staff

Project file (when P&D permit is required)
Date Filed by County Clerk: _____.

ATTACHMENT-D

Montecito Board of Architectural Review Minutes

4-25-11

11BAR-00000-00024	Van Vliet Addition and Remodel	1717 Fernald Point Lane
11CDH-00000-00008	(Nicole Lieu, Planner 884-8068)	Ridgeline: N/A

Request of Jennifer Foster, agent for the owners, Alan & Kathryn Van Vliet, to consider Case No. 11BAR-00000-00024 for a further **conceptual review of an addition of 10 square feet to the existing one story single family dwelling, a second story addition of approximately 396 square feet, an addition to the attached garage of approximately 119 square feet. New fencing, walls and entry gates are proposed as well.** The following structures currently exist on the parcel: a one story single family dwelling of approximately 3,302, an attached garage of approximately 658 square feet, and an attached carport of approximately 119 square feet. The proposed project will require approximately 72 cubic yards of cut and approximately 26 cubic yards of fill. The property is a .42 acre parcel zoned 1-E-1 and shown as Assessor's Parcel Number 007-380-021, located at **1717 Fernald Point Lane** in the Montecito area, First Supervisorial District. (Continued from 3/14/11)

Public Comment:

Charles Bargiel - Letter
Mark and Lynda Schwartz -Letter

MBAR Comments:

- 1. Proposed increase in height is fairly modest, as proven by story poles. Comfortable with mass, scale and height.**
- 2. Project is fairly self contained and improves access across easement to neighbor.**
- 3. Some concern about functionality of the proposed motor court.**
- 4. Re., land use: architect and owner confirmed that parking during construction will not burden the easement to the neighbor.**

The project received comments only. The project may return for preliminary/final approval.
(Spann, Maphis & Zilles absent from the discussion)

3-14-11

11BAR-00000-00024	Van Vliet Addition and Remodel	1717 Fernald Point Lane
11CDH-00000-00008	(Nicole Lieu, Planner 884-8068)	Ridgeline: N/A

Request of Jennifer Foster, agent for the owners, Alan & Kathryn Van Vliet, to consider Case No. 11BAR-00000-00024 for a **conceptual review of an addition of 10 square feet to the existing one story single family dwelling, a second story addition of approximately 396 square feet, an addition to the attached garage of approximately 119 square feet. New fencing, walls and entry gates are proposed as well.** The following structures currently exist on the parcel: a one story single family dwelling of approximately 3,302, an attached garage of approximately 658 square feet, and an attached carport of approximately 119 square feet. The proposed project will require approximately 72 cubic yards of cut and approximately 26 cubic yards of fill. The property is a .42 acre parcel zoned 1-E-1 and shown as Assessor's Parcel Number 007-380-021, located at

1717 Fernald Point Lane in the Montecito area, First Supervisorial District. (Appearing: Jennifer Foster, Alan Van Vliet, Cary Gepner)

Public Comment:

Kellem de Forest

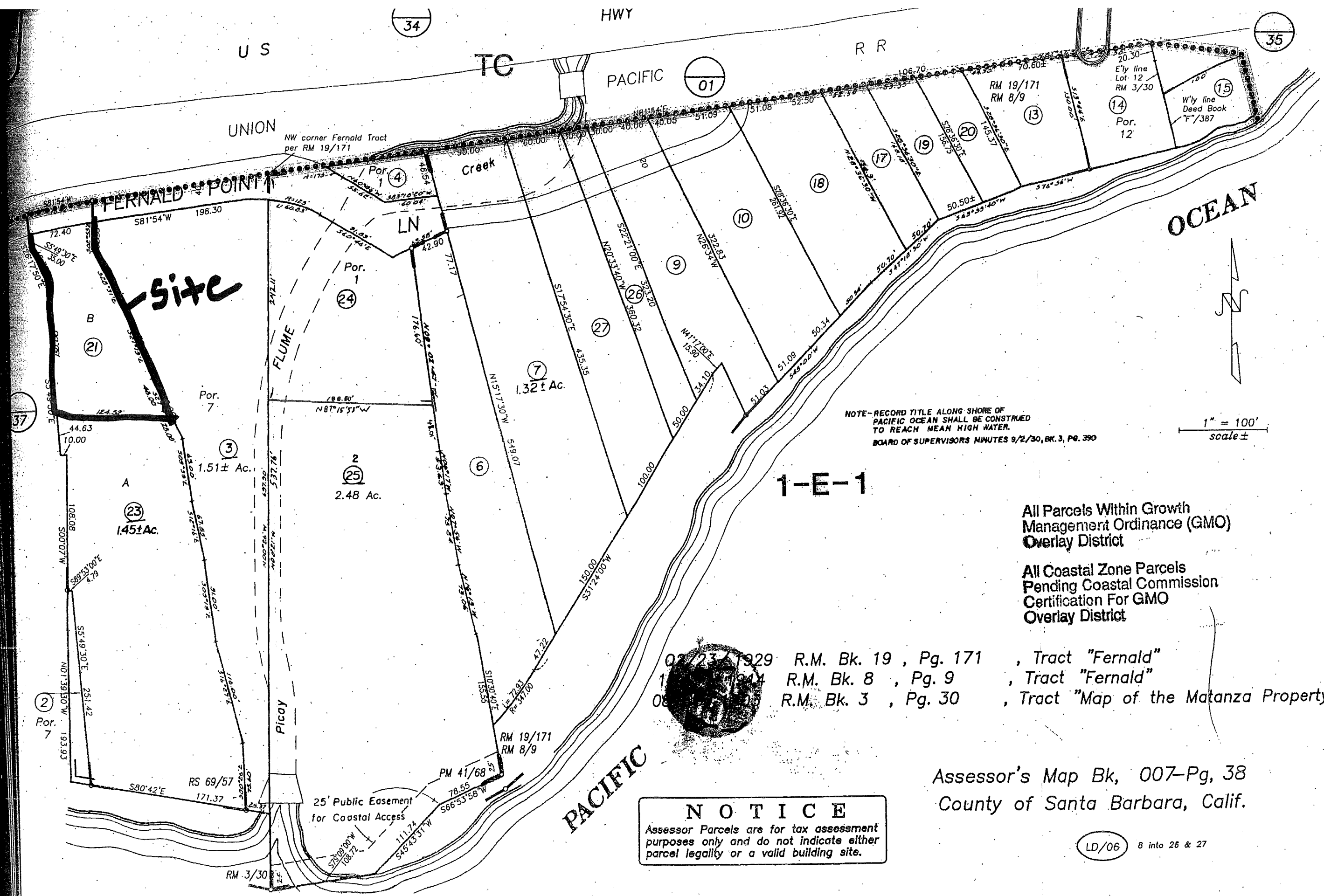
Letters: Peggy Dent, Mullen & Henzell, LLP, Mark & Linda Schwartz

MBAR Comments:

- 1. Project changes to driveway and garage appear to be an improvement over the existing situation.**
- 2. Set back new wall/fence enough from driveway easement to provide room for plantings to screen/soften the wall/fence.**
- 3. Provide details for the concrete pilasters of the wall/fence.**
- 4. Might be nice if second story set back further from the south; story poles will help determine.**
- 5. Relation of the new addition height and deck to the south property important.**
- 6. Site visit and provide story poles for the second floor.**

Project received comments only. Nulty absent from discussion. The project may return for preliminary approval with of the approval of the planner.





NOTE-RECORD TITLE ALONG SHORE OF PACIFIC OCEAN SHALL BE CONSTRUED TO REACH MEAN HIGH WATER.
BOARD OF SUPERVISORS MINUTES 9/2/30, BK. 3, PG. 390

1" = 100'
scale ±

1-E-1

All Parcels Within Growth Management Ordinance (GMO) Overlay District

All Coastal Zone Parcels Pending Coastal Commission Certification For GMO Overlay District

0072371929 R.M. Bk. 19 , Pg. 171 , Tract "Fernald"
111944 R.M. Bk. 8 , Pg. 9 , Tract "Fernald"
081966 R.M. Bk. 3 , Pg. 30 , Tract "Map of the Matanza Property"

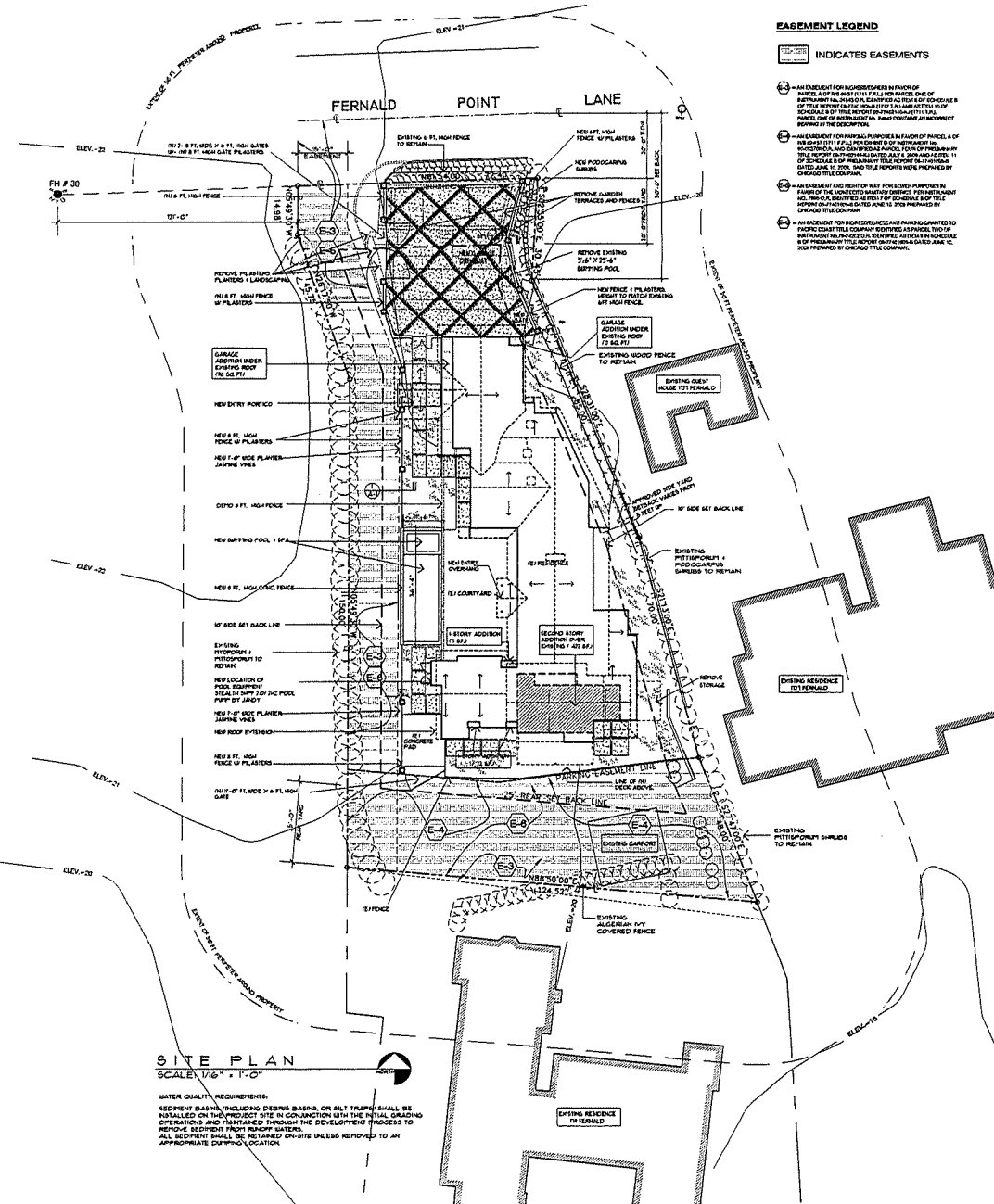
Assessor's Map Bk, 007-Pg, 38
County of Santa Barbara, Calif.

NOTICE
Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

LD/06 8 into 26 & 27

ATTACHMENT E





Attachment 7

Planning and Development Memo to Montecito Planning Commission

(dated August 23, 2011)

COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Montecito Planning Commission

FROM: Anne Almy, Supervising Planner, Development Review-South
Planning and Development Department

DATE: August 23, 2011

RE: Van Vilet Addition, Case No. 11CDH-00000-00008
1717 Fernald Point Lane, APN: 007-380-021

In response to the comment letter from Mullen and Henzel, dated August 19, 2011, staff recommends that findings 2.2.4 and 2.2.5 and condition number 3 (Special-Construction Parking Plan) of the staff report dated August 5, 2011 be amended as indicated below. Additional items from the comment letter will be addressed as a part of staff's presentation.

Staff recommends that finding 2.2.4 be 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 22 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.

Staff recommends that finding 2.2.5 be 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.

Staff recommends that condition no 3 (Special-Construction Parking Plan) be 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.

Attachment 8

County Counsel
Facilitation Report

(dated December 6, 2011)



5
COUNTY COUNSEL MEMORANDUM

DENNIS A. MARSHALL
COUNTY COUNSEL
805-568-2950

CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION
NOT TO BE RELEASED WITHOUT AUTHORIZATION

DATE: December 6, 2011

TO: Board of Supervisors

FROM: Mike Munoz, Deputy County Counsel

A handwritten signature in black ink, appearing to read "Mike Munoz", written over the printed name.

RE: REPORT ABOUT THE FACILITATION PROCESS,
FROM THE DENT APPEAL, OF THE MONTECITO PLANNING COMMISSION'S APPROVAL, OF THE VAL VLIET
ADDITION

-
1. SUMMARY: In accordance with Resolution Number 95-462, the County's Office of Count Counsel attempted to facilitate resolution of this land use dispute. As of December 6, 2011, the parties to this appeal have not reached an agreement to withdraw the pending appeal.
 2. Through the facilitation process, the parties met on October 27, 2011 and discussed potential alternatives for resolving this land use dispute.
 3. At the end of that facilitation meeting:
 - The parties requested a hearing date.
 - County Planner Nicole Lieu described the framework and logistics for presentations that the parties may wish to make at the appeal hearing.

Copy: Margaret J. Dent, Trustee, et al (Appellant), via Attorney Lindsay G. Shinn
Alan and Kathryn Van Vliet (Owners), via Attorney Richard Monk