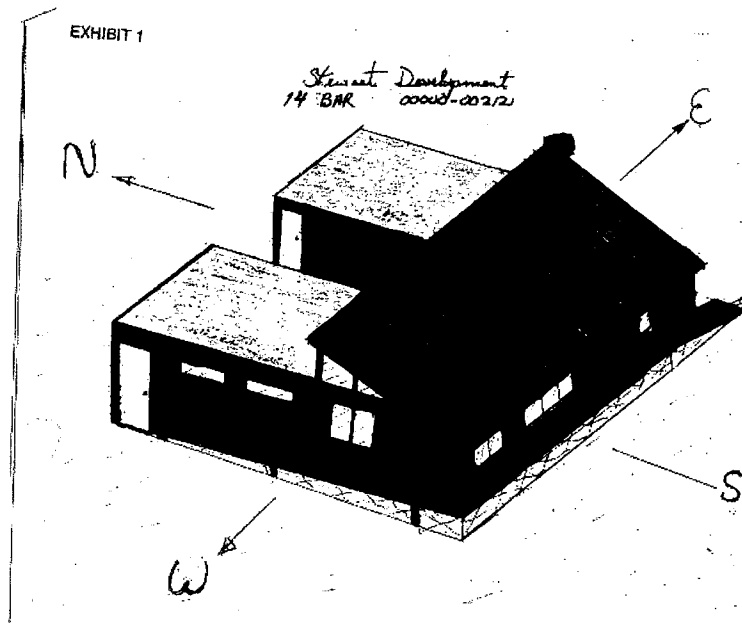


APPEAL TO BOARD OF SUPERVISORS  
Stewart Development - Residence  
Case No. 15-APL-00000-00005: 14 LUP-00000-00438

October 2015

My name is Jim Nicholas. I am a resident within a common interest development of small ranches and farms in the rolling hillsides east of Los Olivos where the proposed residence would be located. Most of the homes in this area are built on ridgelines and fall under the authority of the BAR process.

I attended the CBAR hearings on the subject Stewart Development to determine exactly what was being proposed. After the second hearing it became apparent that the proposal fell far from the criteria established by the Board of Supervisors. In the subsequent hearings my written protests went unacknowledged or questioned. Further research into the details of the development led me to the conclusion that the BAR development criteria were NOT being followed



Proposed Stewart Residence

Exhibit 3 is a photo of a typical hillside development common to this area. It was not chosen to highlight the architecture but to project the feel of the community and hillsides surrounding the subject development. Many other examples were presented to the CBAR in letters addressing my concerns to demonstrate how inappropriate this architecture is in our area.

Quoting from the County Board of Supervisor's directive, Exhibit 2:

"It is the purpose of the Boards of Architectural Review to prevent these (described below) and other harmful effects of such exterior appearance of buildings, structures, .. on any site subject to architectural review...."

**Board of Supervisors Finding; 1) Inappropriateness or poor quality of design:**

The subject Stewart design does not conform to any architectural style in our area. The shed design originated in eastern wooded areas in the 1960's and fell out of favor within a few years. It does not adapt well to most parts of the country and certainly not to a warm, non wooded hillside.

The design is inappropriate for our area not only from the standpoint of "looks", but the proposed construction is 60+ years behind the times for residential structures. Pier and beam foundation, wooden siding, tin or metal roofing are simply not desirable or functional when more modern and practical materials are available. Pier and beam construction will lead to the structure being a hot box in the summer and cold box in the winter. The temperature stabilization of interiors with **slab foundations** has been demonstrated both during winter and summer months. A raised foundation in our area will be a nightmare with every creature in the area finding a nice home beneath the structure. It's not clear whether the underside of the structure will be enclosed. If it is enclosed this area must be ventilated to remove moisture. It will not only be difficult to prevent access for animals and insects, but also prevent burning particles from entering the area beneath. If it's not enclosed, too many scenarios exist to discuss here. Metal roofs with thermal insulation may help with temperatures but it does very little for noise abatement when it rains. It is difficult to find any advantages in building a residence of this type with the exception that **it is much less expensive** than conventional construction.

When I addressed these issues, the CBAR chair person argued that the design **does** conform to the styles in our area. When challenged she *stated "there are other examples of this architecture in the County"*. She refused to identify where and said something along the lines that she didn't have time to specify their location and that I should check with the County historical references. As documented in my letters, I did just that. I could find **not one reference** in the 35 books on Santa Barbara County/Southern California architecture I examined. Not one Santa Barbara architectural historian had any knowledge of the Shed style, and local architects could not recall such architecture being in our County. In fact, a Santa Barbara County Architectural Historian who was familiar with the Shed architecture having lived in the Northeast, documented that she had no knowledge of Shed architecture being in Santa Barbara County. See Exhibits in letter to S.B. Planning Commission. In fact, this issue was brought up again at the Planning Commission hearing with the 2<sup>nd</sup> District Chairperson stating that she **knew of examples** of such design. I followed up by asking the Commission Clerk to forward an email requesting the location of these properties. She also failed to respond with examples.

Continuing with the criterion of Finding 1 above, let me address the appropriateness of design. Appropriate design encompasses such issues as eye appeal, desirability as a living space, impact on others who must view the structure, neighborhood compatibility, etc. Viewing a structure with a large shed roof supported by two construction trailer like living quarters does not meet this standard. The proposed structure falls far from the community norm. I would also argue that the barn directly behind the proposed structure, in fact, does meet this architectural standard. It looks like a barn and, to many of us in this small ranch/farming designated area, has eye appeal .

The proposed structure does not meet the standard for **appropriateness** and its poor design is well beyond the bounds of subjectivity or personal preference.

**Board of Supervisor Finding; 2) Impairs the benefits of occupancy of existing property in such areas:**

One need only compare the sight of existing homes to the one being proposed to see that it is detrimental to the views seen by all neighboring properties. First impressions of the view of the Shed design will be "what is that?" From the front it looks more like something seen on a Louisiana bayou or in the Pirates of the Caribbean. From the rear and sides it appears to be part of a trailer park. The CBAR recommended changes such as increased roof size (as you can see it already pretty much dominates the front of the building) and dark, dark colors for all viewable exterior surfaces, including the roof. (The color of roof was recently changed to green). So what was CBAR attempting to do.... It appears they were attempting to make the entire structure disappear into the surrounding hillside. This included making the roof larger to cover the trailer like rear wings of the building. (The sketch does not reflect the somewhat larger roof area specified by CBAR).

**Board of Supervisor Finding; 3) Impairs the stability and value of both improved and unimproved property:**

Many times a precedent is set by CBAR decisions. A common example in our area is to justify a two story ridge line residence on the basis of a two story neighboring property which clearly did not meet the terms of the ordinance. It has occasionally happened because no one objected. What if someone proposes a space ship architectural style on a ridge line which doesn't conform to our styles of architecture and argues that, since we have Shed like properties, why not other exotic styles?

We have several unimproved properties close to the proposed development. Some are for sale. The presence of the proposed structure will reduce, not enhance the value of these undeveloped properties, nor will it improve the prospect of a sale.

Existing home sales will suffer the same fate. A major attribute of the homes in our area are the views of the surrounding hillsides. Most homes are designed with large picture windows to enhance the scenery. Seeing a shed like structure on the neighboring hillside will not encourage a prospective buyer.

**Board of Supervisor Finding; 4) Destroys a proper relationship between the taxable value of real property and the cost of public services..**

I my first letter to the BAR I brought up the question of taxable value of the proposed structure since this was also a clearly defined criterion specified by the Board of Supervisors. CBAR did not respond to this point.

Current data from S.B. County showing property taxes for surrounding properties purchased or built within the last 11 years or presently for sale is shown below. See Exhibit 4 for location of properties relative to the Stewart property.

**Examples of S.B. County property tax for properties either completed or sold after 2004 near the Stewart Development...**

Map No.	APN No.	2014/2015 Secured Property Tax Assessment
26	135 310 026	\$25,296
31	135 310 031	\$27,158
35	135 310 035	\$26,532
38	135 310 038	\$26,400
17	135 310 017	\$27,258
39	135 310 039	\$25,730
36	135 310 036	\$25,300
	Sale Pending	Estimated assessment after sale
19	135 310 019	\$22,000
	Sold	Estimated assessment
24	135 310 024	\$21,000
	Sale Pending	Estimated assessment after sale
41	135 310 041	Stewart property
		If tax base is transferred from previously owned SB property (Prop 60) - <b>\$6400</b>
		or
		Projected tax if assessed on land + new construction - <b>\$10,505</b>

The median tax is \$25,730. The proposed unit tax base of the Stewart property will be either 25% or 41% of medium base. The Stewart development destroys the relationship between taxable value and roads, schools, and other infrastructure for our

area.

Conclusion: **Not one finding of Board of Supervisors** was followed by the Central Board of Architectural Review.

## **COMMENTS ON PLANNING AND DEVELOPMENT STAFF REPORT WHICH RECOMMENDED APPROVAL OF CBAR ACTIONS**

**P&D Staff report** stated that CBAR approval was not appealed within a 10 day period. Please note the multitude of references to CBAR procedures, actions, rules, etc on each CBAR Public Notice, Exhibit 5. There is **no reference or statement** pertaining to any 10 day notice of appeal.

I made it abundantly clear to CBAR and to the P&D representative and her predecessor that I would be appealing the CBAR decision. P&D Planner representative responded by saying I could forward my letters and comments to her to be part of the documentation for any Planning Commission appeal. I received no communication during this CBAR meeting that there was a 10 day CBAR appeal window. As stated above, the CBAR minutes, agenda, and every other communication to participants provides **no notice** of a 10 day appeal process. However, there are many other statements included in each notice, record of minutes, etc of CBAR proceedings which reference Chapter 35 ordinances. The 10 day appeal period was not included in any of these references.

I submit there was NO PROPER NOTICE OF 10 DAY APPEAL, either printed on CBAR hearing notice documents or provided verbally during any of the meetings where I brought up the subject of appeal. **In that no notice of appeal time limits were provided, the 10 day appeal period does not begin to toll until such notice is provided on CBAR documents.** These notices are common on most S.B. County documents subject to appeal and have been enforced by the Courts.

### **Staff Report - Appellant Appeal Issue # 1**

The decision to approve this development was **inconsistent** with the S.B. County Supervisor's BAR findings and purpose.

The staff response to my allegation above: "The CBAR is guided by a set of **general** goals which define the major concerns and objectives of its review process" , par 6.1 (p4). While this statement may be true, **it is not the County stated policy and it is not up to unelected public servants to create new, unapproved, and unpublished public policy** when prior criteria has been clearly established. The Board of Supervisors issued specific guidelines, not general goals of land use policy. This staff report continues and proceeds to define **their** goals, not the stated findings of the Board of Supervisors. For example, one of *their* goals is to promote "visual interest .. providing for a variety of architectural styles". I don't see this anywhere in the Supervisor's findings. However, it is interesting to note, that five of these six "goals" specified in the Staff Report **are not met.**

The remaining text of the staff comments on this issue simply reiterated meeting discussions and considerations. None of these comments touched on the basic Board of Supervisor findings which I discussed in detail in several letters to the CBAR. Instead, CBAR review time was spent on subjects such as interior lighting (recessed or not), boxes around windows (to improve visual detail?), ways to make the structure disappear into the background of the terrain, dark exterior colors, etc.

Conclusion: The 22 page staff report plus attachments fails to respond to my objections. It provides no significant detail to support their position(s) whereas I supplied many examples of existing homes and historical architectural documentation demonstrating the proposed structure was not compatible with, nor did it conform to, neighborhood construction quality. Furthermore, the staff report **did not** address the Board of Supervisor finding regarding the impact on the County tax base discussed above.

### **Staff Report - Appellant Appeal Issue #2**

This issue addressed my complaint that;

- 1) the design and style do not conform to neighborhood standards and is not consistent with existing residential quality and architecture, and
- 2) CBAR member(s) stated that development was "in conformance" with the community. No examples could be produced by CBAR to substantiate this conclusion and architectural professionals contacted could not identify any examples of similar residential housing.

Staff response does not directly address my complaint but discusses a *policy*, Visual Resources Policy 3, which requires new structures to be compatible with scale and character of the existing community. I don't disagree with this statement. Yet, staff reports "this policy encourages *diverse* housing types". This is a major distortion of the intent of the word "diverse" in the context of this policy. Planned communities are urged to provide a "diverse" selection of styles so that a cookie cutter appearance is not evident. For example, a developer will provide options for several architectural styles within a planned development. This diversity word was never intended to apply to construction of a single unit within an existing 39 year old community with four undeveloped properties and then be used to justify the approval of a Shed style architecture. As I pointed out in my first letter to CBAR, there are many architectural styles represented in our community. Therefore, the community cannot be characterized as a cookie cutter development as suggested by the CBAR chair person in the second meeting on this application.

Another staff response to this issue states that the architectural elements are consistent with modern and rustic design such as *metal siding* ?, par 5, p5. This is confusing in that *rustic* design does not normally have metal siding and modern design never uses plywood exteriors. However, the detail (S-2) of the developer plans states that the siding is 3/8 plywood. So what type of architecture do we have here..Simply put, I contend, as far as looks are concerned, it's SHED architecture and has far more SHED design characteristics than Modern Architecture or the non characterizeable Rustic

style. This is the reason I explored the history and style of SHED Architecture since it was the only style close to that proposed. For architectural considerations I relied on the opinions of the Professional Architectural Historians. I have presented considerable documentation on this question in my letters. However, there has not been any evidence presented that support the Staff Report allegations that this structure has any significant features that qualify as Modern features. Rustic is a general designation of structures from shacks to roughly constructed buildings which, as far as I could establish, fall outside the recognized forms of architecture.

Another issue not addressed by CBAR or in the Staff Report is the subject of PARKING LOTS .. We didn't have parking lots in this community until this development was proposed. No garage or utility building has been proposed for parking. Residential units within our common interest development have garages. The proposed development does not conform to present residential unit standards. (However, cars, trucks, vans, grading equipment, storage containers **are presently stored on the subject site**. No storage yard permit for a residential area has been issued. P&D has not responded to my inquiries as to why the County permits this storage area in a residential neighborhood)

### **Staff Report - Appellant Appeal Issue #3**

- 1) CBAR members did not respond to concerns and objections stated in my letters.
- 2) When I asked if minutes would include my letters, I was informed they would not be.
- 3) When I asked how the record would be complete without community input, the chair person simply said that "they had to move on". CBAR January meeting.

Staff Response to these comments:

- 1)..Board members are not required to respond to individual comments.

My question:

Why not? Is this a written policy? If so, where can it be found? What's the purpose of public hearings if comments are not documented and later addressed.

- 2) A related question which I have not addressed until now is why CBAR does not require P&D to provide a check list for conformance to the "findings" established by CBAR.

2) Staff Report states *"...a copy of any written statements read by a member of the public shall be given to the CBAR Secretary."*

There was some confusion here. In the meeting I was led to believe that my letters would not become part of the CBAR proceedings and if I wanted to have them introduced as part of any appeal I would have to send them to the County Planning representative.

So the questions exists: Why are not all public letters, comments, etc. included in the CBAR meeting minutes? CBAR chair person explicitly stated that they **would not be** included. What type of historical documentation exists if only the member comments

and decisions are documented? Answer: Apparently only that part the CBAR wants included in the official minutes.

### **Environmental Review:**

*Visual Resources Policy #3 (page 9 of staff report)*

Quoting from the staff report “...in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community.”

The report characterized this goal as *being CONSISTENT meaning that SHED Architecture was (in conformance) with scale and character of existing community.* This staff report conclusion is beyond the bounds of subjectivity and is clearly not the case.

Continuing through the Staff Report, please observe that most of it is boiler plate material and not relevant to any part of the appeal. Skipping through to page 17, of the report is a reference to a requirement that was quickly glossed over and dismissed. The relevant portions of the policy are contained in Visual Resources Policy #3 cited above:

***DevStd FIS-SYV-1.3: Development shall not occur on ridge lines if suitable alternative locations are available on the property.***

Staff Discussion:

Staff report found *that no other suitable building sites were available on the subject site. “Other areas .. are constrained topographically with steep slopes, or are located adjacent to a blue line creek or in areas that contain numerous oak trees.”*

Objection to Staff Discussion:

This statement is simply not true. See Exhibit 6. (Note small red mark designating the proposed site). The six acre northern portion of the parcel has numerous flat building sites. The reference to a “blue line creek” is unsupportable and infers that building cannot be approved in or near this area. There is not even a ditch in the area let alone a blue line creek. The County defines a blue line creek as a FEMA designated area. However, FEMA designates a blue-line creek as “one which flows for most or all of the year and is marked on topographic maps with a solid blue line”. This area does not now have nor, for the 38 years I have owned a lot just down from this area, has it ever had a “blue line creek”. Furthermore, the purported creek location is in a road easement, outside of permitted building sites.

From Exhibit 6 one can see that there are several building sites that can easily accommodate 1200, 2000, 3000 sq ft one or two story residences. These are lightly wooded sites with many open areas located in a private valley and very suitable for the construction of the SHED or any other architectural style. Construction on these sites would not require the removal of any oak trees. There is no reference in any statute or guideline or goal regarding residential building restrictions in “areas that contain



numerous oak trees”. There are no creeks. The areas suitable for building sites are flat. **Little or no grading would be required.** Exhibits 7 and 8 are ground photos of the northern six acre site.

Exhibit 9 shows some examples of residences immediately adjacent to the available northern six acres which have similar sites in wooded areas. Note the residences are 3000 - 4000 sq ft. The maps can be used for scaling of existing homes to available sites on northern portion of the parcel. Furthermore, the available sites on the six acre portion would not require BAR review or approval and would provide a much more suitable environment for the subject dwelling. No problems would be encountered with indoor and outdoor lighting or viewsheds affecting neighboring properties. The owners of the adjacent lot have taken advantage of this type of setting as have the owners of another nearby lot, both of which are at the same elevation as the flat portion of the northern Stewart lot. **I cannot foresee any objection to locating the proposed structure on any of these many sites.**

Here are the specific sections from the Ridgeline Ordinance reference in **DevStd FIS-SYV-1.3** above:

**Sec. 35-292b.3. Development Guidelines.**

*g. Development on ridge lines shall be discouraged if suitable alternative locations are available on the parcel.*

**Sec. 35-292b.4. Exemptions.**

*The Board of Architectural Review may exempt a new structure or an alteration to an existing structure from compliance with these guidelines, in compliance with Section 35-329 (Board of Architectural Review) provided **that in their review of the structure they find that one or more of the following situations applies to the proposed development:***

*b. In certain circumstances, allowing greater flexibility in the guidelines will better **serve the interests of good design, without negatively affecting neighborhood compatibility or the surrounding viewshed.***

**The CBAR did not produce any findings to support any exemption nor was an exemption granted.**

**SUMMARY OF COMMENTS TODAY**

1. The proposed project does not conform to the findings defined by the Board of Supervisors. These findings also state that it is the purpose of the Board of Architectural Review to prevent these and other harmful effects of such exterior appearance of buildings, structures.... on any neighborhood or on any site subject to the architectural review.. I submit that the CBAR has failed in its express charter.
2. Staff Report did **not** address issues appealed by Nicholas. Specifically this

development

- a. is of poor quality in design of exterior appearance
- b. adversely affects the desirability of the immediate area
- c. impairs the benefits of occupancy of existing property
- d. impairs the stability and value of both improved and unimproved real property
- e. destroys a proper relationship between the taxable value of real property ..and cost of public services provided therefore.

3. Neither the CBAR members or County Staff addressed the basic issue of the proposed architecture, its historical roots, or its suitability for this area.

3. Staff report stated that "There are no other suitable areas on the subject parcel.." This is not evident from site inspection, maps and photos which show numerous suitable sites. Several adjacent developed properties have very similar conditions.

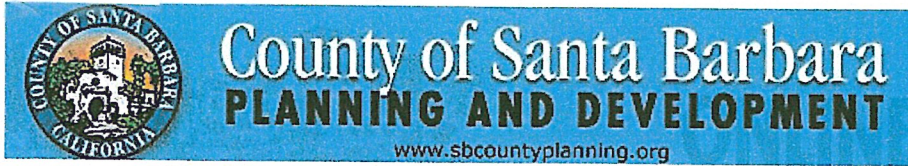
I urge the Board of Supervisors to reject this development in its entirety on the basis that;

- 1) it does not meet the BAR standards established by the Board of Supervisors
- 2) it violates Santa Barbara County Ordinance, Chapter 35 **Sec. 35-292b**
- 3) the building site could and should be located on the northern six acre portion of the lot, **allowing the development to be exempt from BAR jurisdiction.**

Thank you for your attention and consideration.

Are there any questions?

EXHIBIT 2



Select Language ▼

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## Central County Board of Architectural Review (CBAR)

The Board of Supervisors finds that inappropriateness or poor quality of design in the exterior appearance of buildings, structures or signs adversely affect the desirability of the immediate area and neighboring areas for residential, business or other purposes and by so doing, impairs the benefits of occupancy of existing property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate development and use of such areas, produces degeneration of property in such areas with attendant deterioration of conditions affecting the health, safety and general welfare of the county and destroys a proper relationship between the taxable value of real property in such areas and the cost of public services provided therefore.

It is the purpose of the Boards of Architectural Review to prevent these and other harmful effects of such exterior appearance of buildings, structures or signs erected or altered in any neighborhood or on any site subject to architectural review and thus to promote the health, safety and general welfare of the county, conserve the value of buildings and encourage the most appropriate use of land within the unincorporated portion of this county.

### Agendas

The Agenda for the upcoming meeting is available below. After each meeting, Minutes will be made available.

[Agenda for Upcoming Meeting](#)

[Listing of all available Agendas & Minutes](#)

### Hearings

EXHIBIT 3

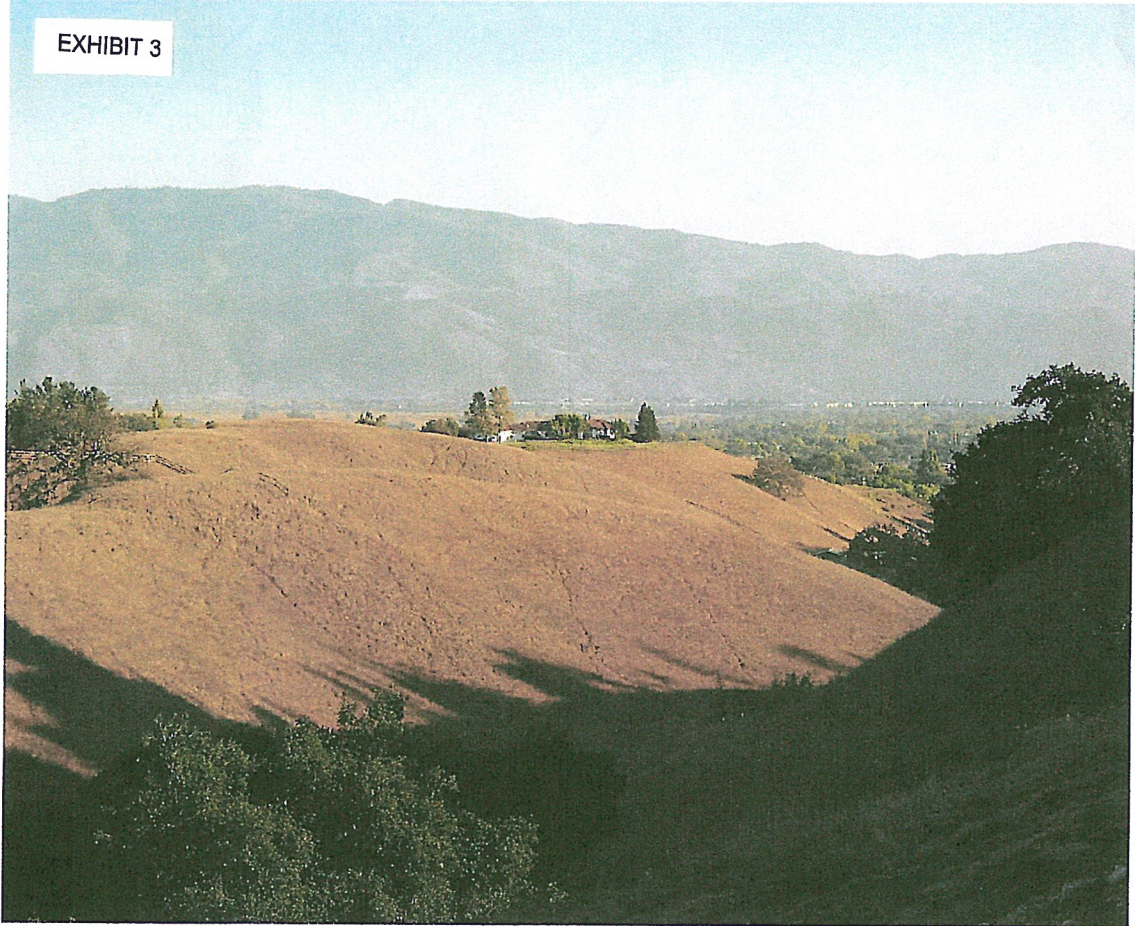


EXHIBIT 4

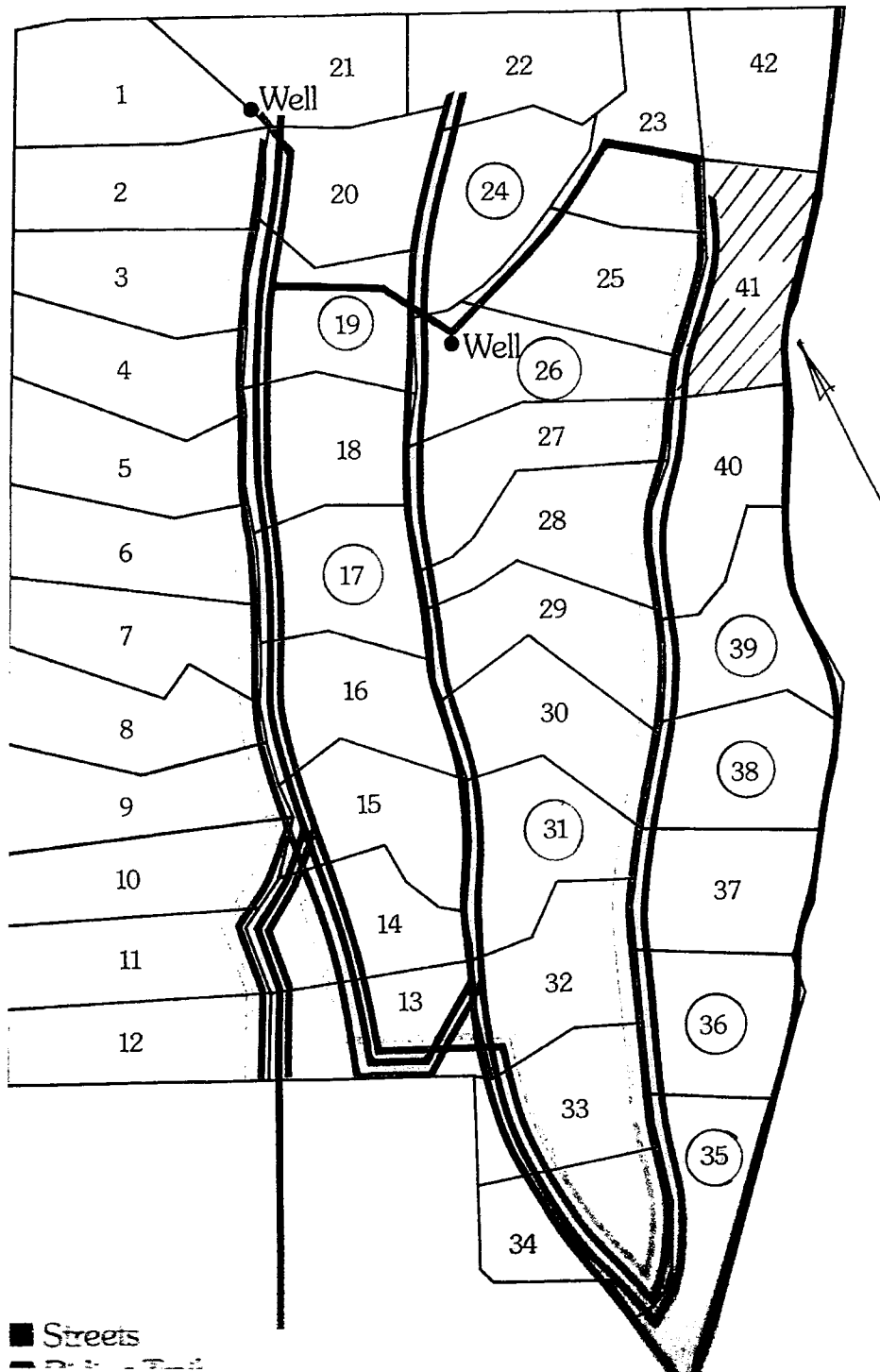




EXHIBIT 5

COUNTY OF SANTA BARBARA



REVISED (2/10/15)

CENTRAL  
BOARD OF ARCHITECTURAL REVIEW AGENDA

Solvang Municipal Court  
1745 Mission Drive, Suite C  
Solvang, CA 93463  
(805) 568-2000

Meeting Date: February 13, 2015  
9:15 A.M.

Revision: Item #4 14BAR-00000-00272 Swavely New Barn was revised to reflect a preliminary and final approval review level.

Bethany Clough, Chair  
C. Puck Erickson-Lohnas, Vice-Chair  
Kris Miller Fisher  
Robin Brady  
Greg Donovan  
Brett Ettinger, Alternate  
Lowell Lash, Alternate  
Dana Eady, Senior Planner  
Anita Hodosy-McFaul, CBAR Secretary

- All approvals made by this Board of Architectural Review are based upon the findings required by the provisions of Chapter 35 of the Santa Barbara County Code.
- If you cannot appear for an agenda item, you must notify Planning and Development by Thursday, 12:00 (noon), one day prior to the meeting date. If you do not contact Planning and Development by this time, you will not be eligible to appear on the subsequent agenda. Two subsequent continuances are allowed.
- Projects continued to a future meeting will be agendaized by Hearing Support staff per the direction of the planner. It is not guaranteed that projects will be placed on the next meeting's agenda. Applicants must work with their planner to have projects placed on a future agenda.
- Requests for change of scheduling should be made to Planning and Development, 123 E. Anapamu Street, Santa Barbara, Telephone (805) 884-6833 or 624 W. Foster Road, Santa Maria, California 93455; Telephone (805) 934-6250.
- If your case appears on the Consent Agenda, please note the following: You must submit your materials for Consent Items to Planning and Development by 4:30 PM, Tuesday, three days PRIOR to the scheduled meeting date. It is recommended, but not required, that you or your representative appear at the Consent Review (8:45 AM) to answer questions if needed, and to observe the announcement regarding your item at 9:00 AM.
- In compliance with the Americans Disabilities Act, if you need special assistance to participate in this meeting, please contact the Hearing Support Staff (805) 568-2000. Notification at least 48 hours prior to the meeting will enable the Hearing Support Staff to make reasonable arrangements.
- Board of Architectural Review approvals do not constitute Land Use Clearances.
- The square footage calculations and the cut and fill cubic yardage listed in this agenda are taken from the Board of Architectural Review application submitted to our department by the project owner/applicant or architect. These figures are only an approximation and are subject to change throughout the review process. Please consult the final set of BAR approved plans for accurate figures.
- The public has the opportunity to comment on any item on today's Administrative, Consent or Standard Agenda. Speaker slips are available by the door and should be filled in and handed to the Secretary before the hearing begins. Please indicate which item you would like to address on the speaker slip and, in your testimony, which portion of the project you will be addressing in your comments. For items on the Standard Agenda, the Board of Architectural Review Chairperson will announce when public testimony can be given.
  - o The order of presentation after the Chairman introduces the item is as follows:
    1. Presentation by the applicant.
    2. Questions by the Board.
    3. Public Comment.
    4. Additional response by applicant/staff.
    5. Board consideration of Findings and Conditions of Approval.
    6. Motion, discussion of motion, decision, and vote by the Board.
- Writings that are a public record under Government Code § 54957.5(a) and that relate to an agenda item for an open session of a regular meeting of the Central Board of Architectural Review and that are distributed to a majority of all of the members of the Central Board of Architectural Review prior to the meeting but less than 72 hours prior to that meeting shall be available for public inspection at Santa Barbara County Planning and Development, 123 E. Anapamu Street, Santa Barbara or 624 W. Foster Road, Suite C, Santa Maria, CA. Writings that are a public record under Government Code § 54957.5(a) and that relate to an agenda item for an open session of a regular meeting of the Central Board of Architectural Review and that are distributed to a majority of all of the members of the Central Board of Architectural Review during the meeting shall be available for public inspection at the back of the hearing room, at 1745 Mission Street, Suite C, Solvang, CA.

EXHIBIT 6





**EXHIBIT 7**



Available sites on Northern Six Acres



**EXHIBIT 8**



**Additional Northern Parcel Sites**



# EXHIBIT 9

ADJACENT PROPERTIES

