



# 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 and Development  
**Department No.:** 053  
**For Agenda Of:** June 4, 2024  
**Placement:** Administrative, Set Hearing on June 4, 2024 for June 25, 2024  
**Estimated Time:** 75 minutes on June 25, 2024  
**Continued Item:** No  
**If Yes, date from:** N/A  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Lisa Plowman, Director, Planning & Development  
Director(s) (805) 568-2086  
Contact Info: Travis Seawards, Deputy Director, Planning and Development  
(805) 568-2518  
**SUBJECT:** **Set Hearing for the Babbitt Appeal of the Planning Commission Approval of the Scibird Residential Alterations, Case Nos. 24APL-00008 of 21LUP-00000-00292 & 22BAR-00000-00187, First Supervisorial District**

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:**

As to form: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

On June 4, 2024, set a hearing for June 25, 2024, the Board of Supervisors consider the Babbitt appeal of the Montecito Planning Commission's March 20, 2024 approval of the Scibird Residential Alterations Land Use Permit and Preliminary Design Review, Case Nos. 21LUP-00000-00292 and 22BAR-00000-00187.

On June 25, 2024, deny the appeal and approve the Project by taking the following actions:

- a) Deny the appeal, Case No. 24APL-00008, thereby affirming the Montecito Planning Commission's decision to approve Case No. 21LUP-00000-00292, and the Commission's decision to grant Preliminary Design Review approval of Case No. 22BAR-00000-00187;
- b) Make the required findings for approval of Case No. 21LUP-00000-00292 and design review approval of Case No. 22BAR-00000-00187, as specified in Attachment A of this Board Letter, including CEQA findings;
- c) Determine the project is exempt from CEQA pursuant to State CEQA Guidelines Sections 15301(a) and 15331, as set forth in the Notice of Exemption, included as Attachment C of this Board Letter; and
- d) Grant *de novo* approval of Case Nos. 22BAR-00000-00187 and 21LUP-00000-00292, subject to the conditions of approval included as Attachment B of this Board Letter.

**Summary Text:**

This Board Letter sets a hearing for June 25, 2024, to review an appeal of the Montecito Planning Commission’s approval of the Scibird Residential Alterations project Land Use Permit and Preliminary Design Review. The project is a request for a Land Use Permit (LUP) Case No. 21LUP-0000-00292 to authorize unpermitted exterior changes to an existing 831-square-foot residence located at 539 Periwinkle Lane in Montecito, First Supervisorial District.

**Background:**

The property hosts a residence designed by Harriet Moody, built in 1949 as a “studio”, as well as a detached single car carport and utility room constructed around 1976. The studio structure was converted to a residence in 1957. According to the project’s Historic Report, the residence is eligible for listing as a County Place of Historic Merit, however, the Moody structure is not designated as an official historic landmark. As such, the residence is neither a “mandatory” nor “presumptive” historic resource under CEQA, but instead falls into the “discretionary historic resource category” under State CEQA Guidelines Section 15064.5(a)(3). The Historic Resources Management Report (“Historic Report”) completed for the project concluded that the residence is a significant historic resource, and it has been reviewed as such for purposes of CEQA.

Over the years, the residence has undergone notable alterations. Most recently in 2020, the owner obtained a building permit (Case No. 20CNP-00000-00784) to replace an asphalt shingle roof on the house and carport with a matching colored, flat panel metal roof. However, after completing the re-roof work, the property owner exceeded the scope of the re-roof permit and a zoning violation complaint was filed. The violation was confirmed by staff for unpermitted work including an interior remodel, removal and replacement of windows and doors, exterior paint changes, and raising the roof height of the residence in two locations.

In response, the property owner applied for a Land Use Permit, Case No. 21LUP-00000-00292 with concurrent design review Case No. 22BAR-00000-00187, to remedy the violation and permit the changes. The initial project description did not include the permitted metal roof. Preliminary Design Review approval for the project was granted by the Montecito Board of Architectural Review (MBAR) on August 10, 2023, and the LUP was approved by the Director of Planning & Development on August 17, 2023. These approvals were subsequently appealed to the Montecito Planning Commission (MPC) by Mr. Babbitt and a group of neighbors on August 21, 2023. The appeal issues included concerns regarding construction impacts on the historic nature of the residence, MBAR’s alleged error in not reviewing the metal roof, MBAR’s alleged error in approving vague and inaccurate plans, and concerns over the safety of the structure.

The appeals of the Land Use Permit and Preliminary Design Review approvals were initially considered by the Montecito Planning Commission on February 21, 2024. The item was continued to March 20, 2024, where the Commission took action to approve the project, consisting of the LUP, which approved the unpermitted elevation increase in two sections of the roof, and installing new doors, windows and siding, as well as the project’s BAR Preliminary Design Review approval. A majority of the MPC indicated that additional project changes that better match the design and characteristics of a typical Moody Cottage, in line with comments provided by the Historic Landmarks Advisory Commission (HLAC), would be required for their approval. The Applicant agreed to incorporate these changes into the project description. These changes included repainting the residence and carport to a more neutral shade of white [Sherwin-Williams Incredible White (SW #7028)], painting the windows ‘Swiss Coffee’ white, and changing the roof material of the residence and carport from the existing standing seam black metal to ‘Max Def Shenandoah’ asphalt shingles.

The staff report to the Commission is included herein as Attachment 12, and the follow up Staff Memorandum from March 13, 2024, is included herein as Attachment 13. The action letter describing the Commission’s approval is included herein as Attachment 5.

On April 1, 2024, the Montecito Planning Commission's decision to approve the project was again appealed by Mr. Babbitt to the Board of Supervisors. Staff reviewed each of Mr. Babbitt's current appeal issues and finds they are without merit as discussed below.

### **Appeal Issues and Staff Responses:**

One appeal application was submitted, 24APL-00008 (Attachment 4). The appeal issues and staff responses are provided below.

**Appeal Issue 1: The project is incompatible with the County's General Plan, Montecito Community Plan, and the Montecito Architectural Design Guidelines and Development Standards, and the findings cannot be made.**

**Staff Response:** The project is compatible with the County's General Plan, Montecito Community Plan along with the Montecito Architectural Design Guidelines and Development Standards, and all required findings can be made. In addition, with the implementation of the design recommendations included in the Historic Resources Management Report, the proposed project is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and will not materially impair the historic nature of the home, consistent with the County's General Plan, Montecito Community Plan, and Montecito Architectural Guidelines. Moreover, per MPC direction, the Applicant agreed to incorporate additional project changes that better match the design and character of a typical Moody cottage, beyond the recommendations of the Historic Report.

The scope of the proposed alterations are as follows:

- Raising the northeastern portion of the roof by 3.5-inches;
- Raising a portion of the eastern roof by 1-foot 5-inches;
- Installing new doors, windows and siding;
- Changing the roof material of the residence and carport to 'Max Def Shenandoah' asphalt shingles, which will return the roof material and color to a condition substantially similar to what existed prior to the re-roof permit and unpermitted changes;
- Painting the windows 'Swiss Coffee' white; and,
- Painting the residence and carport Sherwin-Williams Incredible White (SW #7028).

The proposed changes to the residence were accompanied by a Phase 1-2 Historic Report provided by a County-approved architectural historian (Post Hazeltine Historic Report included as Attachment 8), and has been heard by HLAC and MBAR four times, as follows:

- HLAC on May 18, 2021, and March 11, 2024, per the Montecito Planning Commission's direction.
- MBAR on February 23, 2023; June 1, 2023, June 15, 2023, and August 10, 2023.

The Montecito Board of Architectural granted Preliminary Design Review approval of the project on August 10, 2023, confirming consistency with the required Design Review findings. The preliminary approval was based on plans that did not include changing the roof material to asphalt shingles or painting the windows and exterior wall, which were all required by the Montecito Planning Commission for approval of the project. In MBAR's review and preliminary approval, MBAR analyzed all of the proposed changes to the roof height and doors, windows, and siding and found that the residence was in proportion of the scale of the neighboring residences and the project was consistent with the local community design standards. However, since it was permitted through a building permit, the project description before the MBAR did not include the change of the roofing material to the black, flat panel metal roof. However, the MBAR provided comments that shingles was a more appropriate material for the residence. With the approval by the MPC, the return to a shingle roof has now been incorporated into the project.

Similarly, HLAC did not support the metal seam roofing material but understood the need for the other modifications. HLAC's initial comments from the May 18, 2021 meeting were supportive of the changes

proposed with the inclusion of the recommended measures from the Historic Report to ensure consistency with the Secretary of the Interior's Standards. However, when the project returned to the March 11, 2024 meeting with similar plans, per the direction of the MPC, HLAC made comments disapproving of the 15-inch raised portion of the eastern roof, stating that it dramatically changed the aesthetic of the residence. The MPC considered HLAC's new recommendations that exceeded the requirements in the project's Historic Report for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the MPC required all of them to be incorporated into the project with the exception of changing in the roof height.

Based on all of the application materials and evidence in the record, the proposed alterations have been approved by the Director of Planning & Development, the Montecito Board of Architectural Review and the Montecito Planning Commission and has been found consistent with all applicable aesthetic and historic policies and guidelines in the Montecito Land Use Development Code and Montecito Community Plan. For the full analysis of the project's compliance with the Montecito Land Use and Development Code and the Montecito Community Plan refer to Section 6.3 of the Montecito Planning Commission Staff Report, dated January 2, 2024 (Attachment 12). Additionally, Attachment 1 includes the full analysis of the project's compliance with findings required for all Land Use Permits and Design Review in compliance with Section 35.472.110.E.1 and Section 35.472.070.F.1, respectively.

**Appeal Issue 2: The Montecito Planning Commission allowed a section of the Cottage's roof to be raised up to 17", altering the roofline and materially changing the Cottage's historic character, and approved the installation of new oversized double doors. These modifications adversely impact various character defining features of a structure eligible for listing as a County Place of Historic Merit in a neighborhood eligible for designation as a Historic District, triggering the exception to the exemption pursuant to the County's Thresholds Manual and CEQA Guidelines Section 15300.2(f).**

**Staff Response:** The subject residence falls into the "discretionary historic resource category" under CEQA, and has been reviewed as a historic resource under CEQA, consistent with the recommendations of the Historic Report prepared for the project. However, the residence is not a historic landmark as designated by the County or State, and the neighborhood where the subject property is located is not a Historic District. Projects for the rehabilitation, restoration, or reconstruction of structures that are considered historic resources are exempt from environmental review under CEQA if completed in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (State CEQA Guidelines Section 15311). CEQA also exempts the minor alteration of existing structures (State CEQA Guidelines Section 15301). Under both of these exemptions, the question is whether substantial evidence supports the determination that the project is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. If so, the exception to the exemption under Section 15300.2(f) identified by the Appellant does not apply. In this case, the Historic Report prepared for the project concluded that the proposed project meets the Secretary of the Interior's Standards for Rehabilitation, subject to specific design requirements, all of which have been incorporated into the project description.

According to the Phase 1 & 2 Historic Report, which details the impacts of the project on the structure's historic significance, the house retains many features of its original design characteristic motifs of Moody's cottage style aesthetic. These include a small-scaled footprint, board-and-batten siding, wood-framed multi-paned windows, and a steeply-pitched roof.

The highest portion of the residence currently reaches a maximum height of 13-feet above grade. As part of the project, the central roof section in the rear of the residence was raised approximately 17-inches to provide a taller plate height and to allow installation of a standard 7-foot tall double door, replacing a window. This door will allow secondary egress from the structure, which is currently not available. The added 17-inches brings this portion of the roof to a height of 8-feet 6-inches above grade, 4-feet 6-inches below the tallest portion of the residence. Raising the roof 17-inches in the rear of the residence is not visually prominent from any public

viewing locations and does not appreciably change the street façade of the residence. The Historic Report concluded that the roof change will neither compromise the house’s thematic contribution to the Moody style, nor negatively impact the other Moody houses in the vicinity (Criterion E of the Santa Barbara Significance Criteria).

The appellant noted the CEQA exception for Historic Resources, State CEQA Guidelines Section 15300.2(f), which prevents the use of a categorical exemption if a project may cause a substantial adverse change in the significance of a historical resource. The Phase 1 & 2 Historic Report concluded, “The residence is a significant historic resource for the purposes of environmental review as a potential County of Santa Barbara Place of Historic Merit”. However, reconstruction of historical resources in a manner consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings does not trigger Section 15300.2(f). Therefore, the exception to the exemption does not apply because the report concluded that the proposed project meets the Secretary of the Interior’s Standards for Rehabilitation provided the following four recommended measures are implemented:

- Replacement board and batten siding shall match the original in material and appearance;
- Replacement windows shall match the appearance of the house’s historic window types in regard to the type and appearance of glazing bars; and
- An original window at the north end of the west elevation proposed for replacement shall be retained in place; and
- Revise the water heater door to incorporate some board and batten siding.

These recommendations have been included in the project description and associated plans. In fact, additional project changes, exceeding the requirements in the Historic Report, were required for approval by the Montecito Planning Commission to update the roof material and color to more closely match the historic character of the residence. Therefore, the project is exempt from CEQA, and the exception under Section 15300.2(f) does not apply because implementation of the project with the guidance enumerated above is consistent with the Secretary of Interior’s Standards, and will therefore not cause a substantial adverse change in the significance of a historical resource.

**Appeal Issue 3: The approvals were dependent on inaccurate plans.**

**Staff Response:** The project was reviewed and approved by staff, the P&D Director, the MBAR, and the MPC using accurate plans and application materials consistent with all code requirements, and in compliance with all review guidelines and bylaws pertaining to MBAR and the MPC.

The MBAR preliminarily approved plan set is consistent with what is documented in Photos posted on the website Redfin, which were taken prior to commencement of the as-built work. The site plan from the County’s Land Use Rider, Permit #66664, matches the existing site plan; however, no approved elevations are on record. The appellant has provided no substantial evidence that the approved plans are inaccurate to support this claim. Regardless, the Montecito Planning Commission approved the project de novo and the approved plans accurately depict the proposed project.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

Total costs for processing the appeal are approximately \$9,870.00 (35 hours of staff time). The costs for processing appeals are partially offset by a General Fund subsidy in Planning and Development’s adopted budget. Funding for processing this appeal is budgeted in the Planning and Development Department’s Permitting Budget Program, as shown on Page D-313 of the County of Santa Barbara Fiscal Year (FY) 2023-2024 Adopted Budget.

**Special Instructions:**

The Clerk of the Board shall publish a legal notice in The Santa Barbara Independent at least 10 days prior to the hearing of June 25, 2024. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing as well as a copy of the notice and proof of publication to the Planning and Development Department, Hearing Support, Attention: Katie Nall.

**Attachments:**

1. Findings
2. Land Use Permit 22LUP-00000-00292 with Conditions of Approval
3. CEQA Notice of Exemption
4. Babbitt Appeal Application dated April 1, 2024
5. Montecito Planning Commission Action Letter, dated March 22, 2024
6. Project Plans dated April 3, 2024
7. Montecito Board of Architectural Review Minutes
8. Post Hazeltine Phase 1-2 Historic Resources Report dated May 28, 2021
9. Post/Hazeltine Associates Historic Resources Memo dated June 8, 2023
10. HLAC Minutes dated September 13, 2021
11. HLAC Minutes dated March 14, 2024
12. Montecito Planning Commission Staff Report, dated January 2, 2024
13. Montecito Planning Commission Memorandum, dated March 13, 2024

**Authored by:**

Katie Nall, Planner, (805)884-8050  
Planning and Development Department

**cc:**