ATTACHMENT 5

APPEAL TO THE BOARD OF SUPERVISORS COUNTY OF SANTA BARBARA

Submit to: Clerk of the Board

County Administration Building 105 E. Anapamu Street, Suite 407 Santa Barbara, CA 93101 2015 瓜 -7 周日: 15

COUNTY OF SHIPLE AREAS

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RE: Project Title Land Use approval - Stewart Nevelopmens
Case Number 15 APL -00000 - 00005
Tract/ APN Number 135-310-041
Date of action taken by Planning Commission, Zoning Administrator, or Surveyor 7-1-2015
I hereby appeal the approval with conditions/ or denial) Of the (approval/approval with conditions/ or denial) Please state specifically wherein the decision of the Planning Commission, Zoning Administrator, or Surveyor is not in accord with the purposes of the appropriate zoning ordinance (one of either Articles I, II, III, or IV), or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission, Zoning Administrator, or Surveyor. {References: Article I, 21-71.4; Article II 35-182.3, 2; Article III 25-327.2, 2; Article IV 35-475.3, 2}
Attach additional documentation, or state below the reason(s) for this appeal. Failure to follow Board of Supervisors's published findings, direction, and guidelines for review of architectural aspects of new ridge line developments.
Violation of Ridge Line Ordinance
See attached letter + The expedits.
Name of Appellant (blease print): AH Nicholas J.H. Nicholas
Address: 3070 AVENIDA CABALLO
(City/State/Zin/Edd) YNEZ, CA 93460
(Telephone)
Appellant is (check one):ApplicantAgent for ApplicantThird PartyAgent for Third Party
Fee \$ {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}
Signature: SH Micholas SH Micholas Date: 7-7-2015
FOR OFFICE USE ONLY
Hearing set for: Date Received:

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EXHIBIT 1 - Sketch of Proposed Stewart Residence

Good Morning 1 July 2015

My name is Jim Nicholas. I am a resident within a common interest development of small ranches and farms in the rolling hillside area east of Los Olivos. As a long time property owner of 38 years and resident of 16 years, I have been aware of many hearings by the Santa Barbara of Board of Architectural Review, including two of my own. Most of the homes built in this area are on hillsides 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 what was being proposed fell far from the Board of Supervisor Guidelines. In the subsequent hearings my written protests went unacknowledged or questioned, simply ignored. Further research into the details of the development led me to the conclusion that the BAR guidelines were NOT being followed. I will quickly go through the objectives of the BAR as defined by these guidelines.

EXHIBIT 2 - CENTRAL COUNTY BAR GUIDELINES

Quoting from the County Board of Supervisor's directive:

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

EXHIBIT 3 This is a typical viewshed in this area.

The photo was selected not to highlight the architecture but to project the feel of the community and hillsides surrounding the subject development.

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

Many photos of existing homes are presented in the material before you. The subject Stewart design, initially displayed, does not conform to any architectural style in our area. The 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. 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 identity 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 your hand out, 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 style, having lived in the Northeast, documented that she had no knowledge of Shed architecture being in Santa Barbara County.

Let me address the appropriateness of design criterion. 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. I would also argue that the barn directly behind the proposed structure, in fact, DOES meet this architectural standard. It looks like all the other barns and, to many of us in this 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 sight of 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. 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.

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

Many times presidencies are 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 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 shed like structure will not enhance the value of these properties nor 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 (page 4) I brought up the question of taxable value of the proposed structure since this was also a clearly defined guide line specified by the Board of Supervisors. CBAR did not respond to this point.

In my prior letters to the BAR I did not have supporting data to argue that the subject development would have negative tax implications for the County, and in turn, a loss of tax base for schools and roads. I now have the current data from the County showing the present property tax for surrounding properties purchased or built within the last 11 years or presently for sale.

Examples of properties either completed or sold after 2004 near 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 Sale Pending	\$25,300 Estimated assessment after sale
19	135 310 019 Sold	\$22,000 Estimated assessment
24	135 310 024 Sale Pending	\$21,000 Estimated assessment after sale
41	owned SB prop or	Stewart property ferred from previously perty (Prop 60) - \$6400
	Projected tax if ass	sessed on

land + new construction - \$10,505

EXHIBIT 4 - Location of Nearby Properties

Here is a map of subdivision lots corresponding to APN numbers above. The medium tax is \$25,730. The proposed unit tax base of the Stewart property will be either 25% or \$41% of medium base. Thus this development destroys the relationship between taxable value and roads, schools, and other infrastructure for our area.

Note the proximity of the lots to the Stewart Development.

EXHIBIT 1 - SKETCH OF PROPOSED RESIDENCE - EXHIBIT 1

I would like now to address comments in the staff report:

First: 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 notice.

EXHIBIT 5 CBAR AGENDA AND MINUTES - NO REFERENCE TO 10 DAY APPEAL

During the last CBAR meeting I made requests to include my letters and comments into their minutes for the record. They refused my request saying that it would make the minutes too unwieldy.

I made it clear that I would be appealing their 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 meeting that there was a 10 day appeal window. Furthermore, and more importantly, the CBAR minutes, agenda, and every other communication to participants provides **no notice** of a 10 day appeal process. See Exhibit 5.

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 given to each appellant, in writing. These notices are common on most County documents and have been enforced by the Courts.

Staff Report - Appellant Appeal Issue # 1

The decision to approve this development was inconsistent with the Bar guidelines and purpose. The staff response to my allegation was that the CBAR is guided by a set of **general** goals that define the major concerns and objectives of its review process. No, I DISAGREE. The Board of Supervisors issued specific guidelines, not general goals of

land use policy. The 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 general guidelines. I will comment more on this in a minute.

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, 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 45 page staff report, with attachments, falls well short of responding 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 quality construction. Furthermore, the staff report did not address the Board of Supervisor finding regarding the impact on the County tax base discussed above.

Staff Report para 6.1 (p4). "CBAR is guided by a set of general goals that define the major concerns and objectives of its review process". I addressed this "general goals" comment above but it keeps coming up. However, it is interesting to note, that five of these six "goals" specified in the Staff Report are not even met.

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 and then be used to justify its approval. Going back to the first sentence "..new structures are to be compatible with scale and character of existing community." 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.

Another staff response to this issue states that the architectural elements are consistent with modern and rustic design such as metal siding. 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 yet another sheet shows an arrow pointing to the metal siding. 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 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. This 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.

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?

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 Planner representative.

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 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.

Discussion: This statement is simply not true. First, did CBAR perform a property inspection? If so it was not noted. Second, did County Staff perform an inspection? If so it also was not noted in the report.

Now let's look at this property.

EXHIBIT 6 - OVERHEAD VIEW OF 18+ ACRE SITE - EXHIBIT 6

Note this small mark here... This is the footprint of the subject building.

EXHIBIT 7 - OVERHEAD VIEW OF NORTHERN SIX ACRE PORTION OF SITE

Here we can see that there are several building sites that can accommodate 1200, 2000, 3000 sq ft one or two story residential buildings. 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. Note that what appears to be black tree extensions are shadows due to angle of satellite camera. 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. No grading would be required.

EXHIBIT 8 - OVERHEAD VIEW OF ADJACENT PROPERTIES

Here are some examples of immediately adjacent properties having similar sites next to wooded areas. Note the structures are 3000 - 4000 sq ft. The maps can be used for scaling of existing homes to available sites on northern portion of the parcel. Further more, these 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 affecting neighboring properties. The owners of the adjacent lot have taken advantage of this type of setting. 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 ridgelines 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:

I would like to draw your attention to a letter in your handout submitted by the owner of the neighboring property, Ms Zuehlke. I pointed out this property as being very similar to the northern portion of the Stewart property. First, this common interest development does not have a Board of Architectural Review since many of us successfully argued over the years that one was not necessary. Reasons;

- 1) the County BAR would supercede any local board,
- 2) no one objected to or could improve on the County Board of Supervisors findings,
- 3) not having a BAR reduces possible conflicts of interest and tensions within the owner group.

However, Ms Zuehlke may have a more personal agenda which I can understand and sympathize with. If the subject residence is placed on the ridge line it would not be visible to her, either from her house or the road. If it is located adjacent to her property she will see it every time she leaves and returns home. Is she really saying "NOT IN MY BACK YARD"?

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 and maps which show numerous suitable sites. Several adjacent sites have very similar conditions.

I urge the Commission to reject this development in its entirety on the basis that;

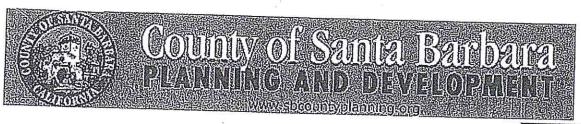
- 1) it does not meet the standards established by the Board of Supervisors and,
- find that the building site could and should be located on the northern six acre portion of the lot, making the development exempt from BAR jurisdiction.

Thank you for your attention and consideration.

Are there any questions?

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EXHIBIT 2



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Related Links

Back to Regional BAR

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

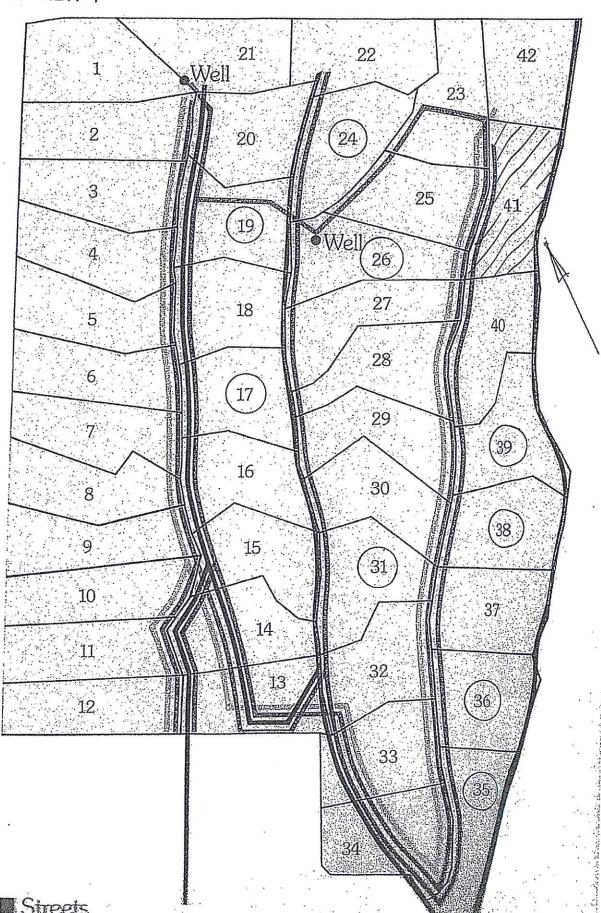
Listing of all available Agendas & Minutes

Hearings

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EXHIBIT 4



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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

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

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

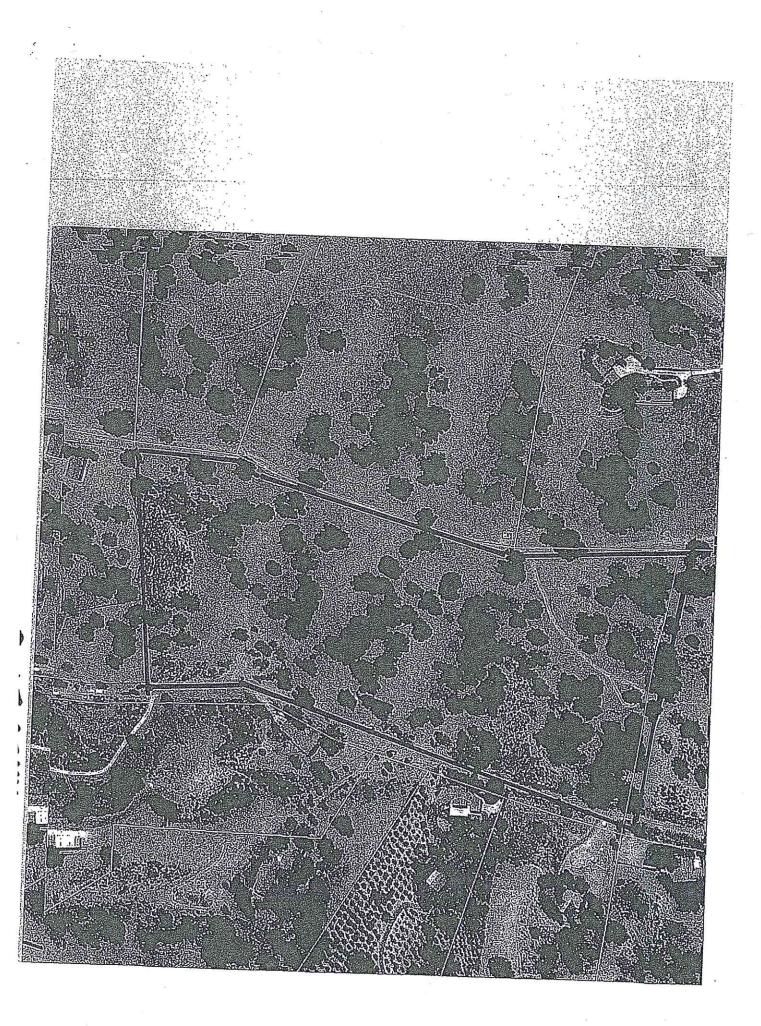
All approvals made by this Board of Architectural Review are based upon the findings required by the provisions of Chapter 35 of the Santa Barbara County Code.

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 agendized 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
- 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
- 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
- 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.
 - 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.
 - Board consideration of Findings and Conditions of Approval. 5.
 - 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 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 majority of all of the members of the Central Board of Architectural Review and that are distributed to a inspection at the back of the hearing room, at 1745 Mission Street, Suite C, Solvang, CA. inspection at the back of the hearing room, at 1745 Mission Street, Suite C, Solvang, CA.

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