

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



Th20b

ADDENDUM

DATE: April 10, 2012

[Click here to go
to the staff report.](#)

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item Th20b, Santa Barbara County Appeal No. A-4-STB-12-015 (Van Vliet),
Thursday, April 12, 2012

The purpose of this addendum is to attach documentation of ex-parte communication disclosure forms received from Commissioner Zimmer (1 page) and Commissioner Stone (1 page).

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

Name or description of project, LCP, etc.: Th 20b Appeal No. A-4-STB-12-015
(Van Vliet, Santa Barbara Co.)

Date and time of receipt of communication: 4/2/12 2:30 pm

Location of communication: Board of Supervisor's Office, Santa
Cruz, CA

Type of communication: telephone conference

Person(s) initiating communication: Susan McCabe
Anne Blenker

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

They represent the applicant and went over slides that show the site. They agree with staff's recommendation of no substantial issue. This is a developed area they said and there are no visual impacts nor is there any ESHA.

Date: 4/3/12 Signature of Commissioner: M. Stone

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used; such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

**FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS**

Name or description of project, LPC, etc.: Van Vliet appeal 1717 Fernald Point

Date and time of receipt of communication: 9:45-10 a.m.

Location of communication: Santa
Barbara _____

Type of communication (letter, facsimile, etc.):
_telecon_____

Person(s) initiating communication: Susan McCabe

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

I told McCabe that I visited the site last week and drove down the driveway at 1711 and 1717 Fernald, as well as walked along the wet beach to the south of the affected properties..

McCabe stated: that Appellants and applicants share a driveway, appellants on the ocean. Primary concern is that buildings are nonconforming. FAR was found by the County to be consistent w/ 25 homes surrounding, this is right in the middle. There are no ESHA concerns.

The Montecito Community Plan/LCP requires protection of public, but only consideration of private views. There is only a minor private view from the appellant's driveway.

Date Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

Appeal Filed: 3/12/2012
49th Day: 4/30/2012
Staff: A.T.
Staff Report: 3/22/2012
Hearing Date: 4/12/2012



Item Th20b

STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: County of Santa Barbara

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-STB-12-015

APPLICANTS: Alan and Kathryn Van Vliet

APPELLANTS: 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.

PROJECT LOCATION: 1717 Fernald Point Lane, Montecito, Santa Barbara County (APN 007-380-021)

PROJECT DESCRIPTION: Construction of three areas of first floor residential additions totaling 29 sq. ft., a 422 sq. ft. second floor residential addition, two areas of garage additions totaling 130 sq. ft., addition of 169 sq. ft., 9 ft. tall flat-roofed carport, demolition of approx. 83 sq. ft. of existing residence, demolition and reconstruction of pool, construction of a new wall and entry gates, installation of new landscape and hardscape materials and 98 cu. yds. grading (72 cu. yds. cut and 26 cu. yds. fill).

MOTION & RESOLUTION: Page 5

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE EXISTS

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed. The **motion** and **resolution** for a “no substantial issue” finding are found on **page 5**. The appellants contend that the approved project is not consistent with policies and provisions of Santa Barbara County’s certified Local Coastal Program with regard to: (1) non-conforming uses, (2) environmentally sensitive habitat area, (3) private views of the mountains and protection of residential privacy, and (4) other issues including: parking and access during construction, construction noise and debris, pool equipment noise, lighting, and mid-project changes. The standard of review at this stage of an appeal

requires the Commission to determine whether the appeal of the project, as approved, raises a substantial issue with respect to its conformity to the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act that the appellants raise in their appeal (see Page 6 for criteria).

The proposed project does not raise a substantial issue regarding the project's conformance with the relevant LCP policies. The proposed project includes minor residential additions to an existing 3,302 sq. ft. single family residence, including 29 sq. ft. first floor and 422 sq. ft. second floor addition, 130 sq. ft. garage addition, carport, demolition of approximately 83 sq. ft. of existing residential sq. ft., demolition and reconstruction of pool, construction of a new wall and entry gates, installation of new landscape and hardscape materials and 98 cu. yds. grading located at 1717 Fernald Point Lane in the Montecito area of Santa Barbara County. The maximum height of the residence with the 422 sq. ft. new second story addition will be 23 feet and the remaining height of the residence will remain 16 feet. The site is in a residentially zoned area of Montecito, does not abut the beach, and does not contain any ESHA. The proposed project will comply with the LCP policies related to nonconforming uses and buildings, environmentally sensitive habitat area, and views. The County's findings indicate that the proposed additions comply with LCP policies and provisions regarding nonconforming uses and structures because the residential use is conforming and the residential building and proposed addition conforms with the all applicable LCP standards, including the applicable guidance document, the Montecito Architectural Guidelines and Development Standards. Further, the County's findings indicate that only minor view impacts could be associated with such a small second story addition. The County has also imposed several coastal development permit (CDP) conditions to minimize construction related impacts and impacts due to lighting and noise.

As described in detail in the findings below (Section D.), the County's record adequately supports its position that the proposed project is consistent with all applicable LCP policies regarding nonconforming uses, ESHA, views, and potential construction, lighting, and noise related impacts. In addition, the proposed development is relatively minor in scope, does not have a significant adverse effect on coastal resources, has little precedential value, and does not raise issues of regional or statewide significance. Therefore, the staff recommendation herein is to find that no substantial issue is raised with regard to the grounds of appeal.

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APPENDIX A: Substantive File Documents

EXHIBITS

- Exhibit 1.** Vicinity Map
 - Exhibit 2.** Parcel Map
 - Exhibit 3.** Project Plans
 - Exhibit 4.** Appeal
 - Exhibit 5.** Final Local Action Notice
 - Exhibit 6.** FAR Study
 - Exhibit 7.** Photograph from beach
-

I. APPEAL JURISDICTION AND PROCEDURES

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permit applications for development in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal development permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

1. Appeal Areas

Approvals of CDPs by cities or counties may be appealed if the development authorized is to be located within the appealable areas, which include the areas between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603[a]). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5]).

In this case, the project site is located at 1717 Fernald Point Lane in the Montecito Area, Santa Barbara County. (Exhibit 1). The County's approval is appealable to the Coastal Commission because the site is located in an area between the sea and the first public road.

2. Grounds for Appeal

The grounds for appeal of a local government approval of development shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[b][1])

3. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that no substantial issue exists with respect to the grounds of the appeal, the Commission will hear arguments and vote on the "substantial issue" question. A majority vote of the Commissioners present is required to determine that the Commission will not hear an appeal. If the Commission determines that no substantial issue exists, then the local government's coastal development permit action will be considered final.

4. De Novo Permit Hearing

Should the Commission determine that a substantial issue does exist, the Commission will consider the CDP application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the entire proposed development is in conformity with the certified Local Coastal Program. Thus, the Commission's review at the de novo hearing is *not* limited to the appealable development as defined in the first paragraph of this Section I. If a de novo hearing is held, testimony may be taken from all interested persons.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On August 24, 2011, the project was heard and approved by the Montecito Planning Commission (11CDH-00000-00008). The Montecito Planning Commission's approval was appealed by the appellants and the appeal was heard by the Board of Supervisors on February 21, 2012 (Case No. 10APL-00000-00019). The County of Santa Barbara Board of Supervisors denied the appeal of Case No. 10APL-00000-00019, thereby upholding the Montecito Planning Commission's approval of Case No. 11CDH-00000-00008 on February 21, 2012.

The Notice of Final Action for the project was received by Commission staff on March 1, 2012. Notice was provided of the ten working day appeal period, which began on March 1, 2012 and ended on March 14, 2012.

The subject appeal was filed during the appeal period on March 12, 2012. Commission staff notified the County, the applicant, and all interested parties that were listed on the appeal and requested that the County provide its administrative record for the permit. The administrative record was received on March 16, 2012.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-STB-12-015 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds **No Substantial Issue**, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-STB-12-015 raises **No Substantial Issue** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified LCP and/or the public access and recreation policies of the Coastal Act.

III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The County of Santa Barbara approved construction of three areas of first floor residential additions totaling 29 sq. ft., a 422 sq. ft. second floor residential addition, two areas of garage additions totaling 130 sq. ft., addition of 169 sq. ft., 9 ft. tall flat-roofed carport, demolition of approximately 83 sq. ft. of existing residence, demolition and reconstruction of pool, construction of a new wall and entry gates, installation of new landscape and hardscape materials and 98 cu. yds. grading (72 cu. yds. cut and 26 cu. yds. fill). (Exhibit 3)

The project site is located at 1717 Fernald Point Lane in Montecito, Santa Barbara County. (Exhibits 1 & 2) The 0.42 acre site is in a residentially zoned area of Montecito, zoned, “*1-E-1, Single Family Residential, minimum lot size 1 acre (gross)*”. The existing development on the

property consists of a 3,302 sq. ft. 16 ft. tall single family residence, 658 sq. ft attached garage, pool, and fencing. The surrounding neighborhood is comprised of one and two story residences. The subject property does not abut the sandy beach. An adjacent parcel developed with a single-family residence is located between the beach and the subject parcel. The parcel does not contain any environmentally sensitive habitat area and no native vegetation would be removed for the proposed project.

B. LOCAL PERMIT HISTORY

The project was reviewed by the Montecito Board of Architectural Review (MBAR) on March 14, 2011 and April 25, 2011 and the MBAR accepted the design. On August 24, 2011, the project was heard and approved by the Montecito Planning Commission (MPC). The appellants submitted letters in opposition to the project to both the MBAR and the MPC. The appellants appealed the decision of the MPC to the County Board of Supervisors. Before the appeal was heard by the Board of Supervisors, a facilitation meeting was conducted between the applicant and the appellants by Santa Barbara County Counsel on October 27, 2011 and the parties were not able to resolve the appeal issues. Subsequently, the appeal of the Montecito Planning Commission's approval was heard by the Board of Supervisors on February 21, 2012 (Case No. 10APL-00000-00019).

The County of Santa Barbara Board of Supervisors denied the appeal of Case No. 10APL-00000-00019, thereby upholding the Montecito Planning Commission's approval of Case No. 11CDH-00000-00008 on February 21, 2012.

C. APPELLANTS' CONTENTIONS

The County's action was appealed by 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. The appeal was filed on March 12, 2012, attached as **Exhibit 4**. The appeal asserts that the approved project is inconsistent with policies and provisions of Santa Barbara County's certified Local Coastal Program with regard to: (1) non-conforming uses, (2) environmentally sensitive habitat area, (3) protection of private views of the mountains and residential privacy, and (4) other issues including: parking and access during construction, construction noise and debris, pool equipment noise, lighting, other required findings not made, and mid-project changes.

D. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the locally-approved project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act. In this case, the appellants did not cite the public access policies of the Coastal Act as a ground for appeal or raise any public

access-related issues. Thus, the only legitimate grounds for this appeal are allegations that the “appealable development” is not consistent with the standards in the certified LCP.

The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. The Commission’s regulations indicate simply that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” (Cal. Code Regs., Title 14, Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

- The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government’s decision for future interpretations of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

In this case, for the reasons discussed below, the Commission determines that the appeal raises no substantial issue with regard to the grounds on which the appeal has been filed, as discussed below, including: (1) non-conforming uses, (2) environmentally sensitive habitat area, (3) protection of private views of the mountains and residential privacy, and (4) other issues including: parking and access during construction, construction noise and debris, pool equipment noise, lighting, and mid-project changes.

The Commission notes that the appellants have raised at least one issue that is not a legitimate ground for appeal. Pursuant to Coastal Act Section 30603(b)(1), the legitimate grounds for appeal are limited to an allegation that the action does not conform to the LCP or public access policies of the Coastal Act. The appellants assert that the project is inconsistent with Montecito Land Use and Development Code Chapter 35.491 regarding nonconforming uses. The Montecito Land Use and Development Code is not certified as part of the Santa Barbara County Local Coastal Program and is therefore not a valid ground for appeal and will not be discussed further. However, non-conforming use provisions that are part of the certified LCP are discussed below.

1. Analysis of County’s Approval

a. Nonconforming Uses

The appellants assert that the project is “inconsistent with County land use and zoning ordinances regarding nonconforming uses.” The appellants assert that Coastal Zoning Ordinance Section 35-160 et. seq. allows the continuation of nonconforming uses but “seeks to avoid the enlargement, expansion or extension of such nonconforming uses.” The appellants state: “[n]onconforming use includes a use of land in a manner that does not now conform with the

ordinances including but not limited to floor area ratios and minimum site area. The subject parcel is in the “1-E-1” zone, which requires parcels to be a minimum of 1 acre in size. The subject parcel is nonconforming as to size (0.42 acres). The proposed project seeks to enlarge, expand, or extend the existing non-conforming use by increasing the size of the residence. The proposed residence would be 23% over the recommended Floor Area Ratio.”

Although the appellants raise the issue of a nonconforming *use*, the appellants do not assert that a residential use is a nonconforming use on a residentially zoned parcel. Rather, it appears that the appellants are referring to nonconforming *buildings and structures* by referencing the parcel size and the floor area ratio (FAR). Article II of the County’s zoning code regarding non-conforming uses is cited below. The applicable parcel size for the subject site is found in Article II of the zoning code and the applicant is correct that the property is zoned residential “1-E-1” requiring a 1 acre parcel size. Additionally, the applicable FAR recommendations for single family residences are found within the Montecito Architectural Guidelines and Development Standards, certified as part of the LCP pursuant to LCPA 1-95-B

According to Section 35-162 (Nonconforming Buildings and Structures) of Article II:

If a building or structure is conforming as to use but nonconforming as to setbacks, height, lot coverage or other requirements concerning the building or structure, such structure may remain so long as it is otherwise lawful, subject to the following regulations.

1. Structural Change. A nonconforming structure may be enlarged, extended, moved, or structurally altered provided that any such extension, enlargement, etc. complies with the setback, height, lot coverage, and other requirements of this Article...

Section III. B (Size, Bulk and Scale) of the Montecito Architectural Guidelines and Development Standards states:

1. Definition: The volume of a structure in relation to its setting

2. General Statement: The Montecito community is concerned about the mass of a structure as it appears to the community, particularly in relation to the surrounding open space and structures in the neighborhood. In order to ensure that development will be compatible with the community, the size of homes will be reviewed in relation to other homes on similar sized lots in the surrounding neighborhood.

3. Guidelines:

a. The floor area of a proposed house should be in scale with development on similar sized parcels in the immediate area.

Table 1 shall serve as a reference for this purpose. A project with a floor area (size) substantially in excess of the floor area of the immediately surrounding properties will have the burden demonstrating that the project cannot be viewed by surrounding property owners due to siting or that its spatial volume (mass, bulk, scale) when taken together with its lot size, setbacks, and landscaping does not make it incompatible with similar

surrounding properties. Floor area is defined as the total area of all floors of a building as measured to the interior surface walls, excluding attics, basements and unenclosed porches, balconies, decks, garages and attached garages of 800 square feet or less. For attached garages of greater than 800 square feet, the square footage in excess shall be included as part of the floor area of the structure.

Table 1

<i>Size of Lot (Gross Acres)</i>	<i>Recommended Maximum House Net Floor Area (Square Feet)</i>
<i>Less than 1 acre</i>	<i>1,800 + (2,500xL) where L is parcel area in acres</i>

...

Note: In certain neighborhoods, the recommended maximum size in Table 1 may not reflect the appropriate level of development. In those cases, neighborhood compatibility shall be the determining factor.

b. Mass of a building should be broken up in order to create interplay between the various building elements in a manner consistent with its architectural style.

c. Recesses and projections should be used to create visual interest.

d. Bulk reducing patterns should be created using doors and windows where possible consistent with the architectural style.

e. The highest portions of a structure should be set back from parcel lines to reduce the appearance of bulk.

f. The height of building elements should be varied where appropriate to the design.

g. Roof lines should be varied where appropriate to the design.

The first factor in evaluating the issue of whether the appeal raises a substantial issue, is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. The County has provided ample findings regarding nonconforming uses and structures on the subject site. The County has determined that the residential use on the subject parcel, zoned for residential use, is a conforming use. In addition, the County has determined that the existing residential structure is a conforming structure pursuant to zoning code Section 35-162. The County's Coastal Development Permit findings (Findings Section 2.2.3) explain that the existing residential property is legal-nonconforming as to size and there are no zoning violations on the property.

The County has also analyzed whether the new proposed additions would be conforming as to setbacks, height, and other applicable building requirements for the structure. The Montecito

Architectural Guidelines and Development Standards provide general recommendations regarding size, bulk, and scale of residential development, including recommendations regarding floor area ratios. While the Montecito Architectural Guidelines and Development Standards provide recommendations for floor area ratios to aid decision-makers, the certified LCP provides that the County has the discretion to determine the appropriate size for single-family homes provided that the other zoning code requirements are met regarding setbacks, height, etc. The Montecito Architectural Guidelines and Development Standards (Section III. B) emphasize compatibility with the surrounding community as the determining factor for approval.

In this case, the County specifically addressed the issue of bulk, size, and scale of the structure and floor area ratio of the proposed development in relation to the Montecito Architectural Guidelines and Development Standards and has provided evidence that the proposed project would meet those standards. According to the County, the residence would be approximately 23% over the recommended floor area ratio after construction of the proposed additions. The existing 3,302 sq. ft. 16 ft. tall residence, constructed in 1965, is already approximately 350 sq. ft. over (or about 12% over) the recommended floor area ratio of 2,950 sq. ft. The additions would add another approximately 450 sq. ft. to the residence. The County's findings indicate that, despite the floor area ratio will be above the recommended guidelines, the additions will be consistent with the community character of the surrounding neighborhood. The County evaluated a study of twenty-five residences on Fernald Point Lane and found that many of the residences exceed the recommended floor area ratio guidelines (Exhibit 6). Thus, the County determined that community character of the neighborhood would be unaffected by a higher floor area ratio because many of the surrounding residences also have a significantly higher floor area ratio.

Additionally, in the findings, the County considered the Montecito Board of Architectural Review (MBAR) approval of the project. The MBAR visited the site to view story poles for the proposed 422 sq. ft. second story addition and found that that the proposed mass, scale, and bulk of the proposed additions would be typical of residences in the Fernald Point Lane area. The second story addition would create a maximum residential height of 23 feet for the 422 sq. ft. second story area, while the existing portions of the residence would remain at 16 feet.

Based on a review of the project and the record, the project is consistent with the applicable LCP provisions regarding the size, bulk, and scale of residential structures in the Montecito area. The Commission finds that there is a high degree of factual and legal support that the County correctly determined that the subject residence, with the proposed additions, constitutes a conforming structure.

b. Environmentally Sensitive Habitat Area

The appellants raise concerns regarding environmentally sensitive habitat area (ESHA) and assert that the County has not considered potential adverse impacts on ESHA. Specifically, the appellants assert that the County has failed to consider relevant Coastal Land Use Plan Policies, including Policy 2-11 and Policy 9-1.

Policy 2-11 states:

All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

Policy 9-1 states:

Prior to the issuance of a development permit, all projects on parcels shown on the land use plan and/or resource maps with a Habitat Area overlay designation or within 250 feet of such designation or projects affecting an environmentally sensitive habitat area shall be found to be in conformity with the applicable habitat protection policies of the land use plan. All development plans, grading plans, etc., shall show the precise location of the habitat(s) potentially affected by the proposed project. Projects which could adversely impact an environmentally sensitive habitat area may be subject to a site inspection by a qualified biologist to be selected jointly by the County and the applicant.

The project site, which is located within a dense residential neighborhood and surrounded on three sides by other developed lots with existing residences, does not contain any ESHA and the minor residential additions will not impact any offsite ESHA. The CEQA Notice of Exemption approved for the project notes that the proposed project is not located in a sensitive resource area. The subject property is not located adjacent to the sandy beach, but is separated from the beach by an adjacent parcel. The County's approval includes special conditions to prevent any off-site impacts that could potentially impact any resources off-site. The Construction Equipment Washout condition (CDP Condition 5) requires a contained washout area to be designated to prevent water from discharging to storm drains, street, drainage ditches, creeks, or wetlands and provides that the area shall be at least 100 ft. from any storm drain, waterbody, or sensitive biological resources. Additionally, the County has included an exterior night lighting condition (CDP Condition 7) to prevent the spillover of lighting onto adjacent parcels. The lighting condition would minimize impacts to any sensitive bird species in the area. Thus, a review of the record shows that the approved project complies with LCP policies regarding ESHA because there is no ESHA on or immediately adjacent to the parcel and the County has required conditions to prevent any potential off-site impacts.

c. Private Views and Residential Privacy

The appellants assert that the project, as approved by the County, raises issues with respect to its consistency with the following policies and provisions of the Santa Barbara County Local Coastal Plan related to protection of private views of the mountains and protection of residential privacy. The appellants assert that the project is inconsistent with Montecito Community Plan Goal LU-M-1, and related provisions of the Montecito Architectural Guidelines and Development Standards.

Montecito Community Plan Goal LU-M-1 states:

In order to protect the semi-rural quality of life, encourage excellence in architectural and landscape design, promote area-wide and neighborhood compatibility, protect residential privacy, public views, and to the maximum extent feasible private views of the mountains and ocean.

Section III. C.(View and Privacy Protection) of the Montecito Architectural Guidelines and Development Standards states:

1. Definition: “View shall mean the ability to see the ocean and/or mountains from a particular site, public roadway, public trail, or community area. “Privacy” is defined as the enjoyment of an individual property where visual intrusion has been minimized.

2. General Statement: The community of Montecito has a commitment to the protection of public views and the consideration of private views, both from the hillsides to the ocean and from the lower elevations of the community to the hillsides. Residential privacy is a key ingredient in the quality of life in Montecito. Historically, these two elements have been important considerations in land development. Although there are no laws which ensure a property owner the right to views and privacy, the County BAR and applicant shall consider the following guidelines when the proposed construction creates view and privacy problems:

3. Guidelines:

a. The siting of new structures in relationship to existing structures should take into account the impact upon views from neighboring sites.

b. The height and roof pitch of structures should take into account their impact upon views from neighboring sites.

c. Variations in roof mass and pitch should be considered to avoid unreasonably impairing views from neighboring sites.

d. Setback changes should be considered to reduce viewshed conflicts.

e. The use of grading may be used to alter the building site elevation and reduce viewshed conflicts.

f. Structures should be located and designed to avoid obstructing views from living areas of adjacent properties.

g. Structures should be located and designed to avoid placement of windows, decks, and balconies which look directly onto private areas of adjacent properties.

h. Noise-producing elements (air conditioners, condensers, pool equipment, etc.) should be located or buffered to minimize noise impact on adjacent properties.

The Montecito Community Plan and the Montecito Architectural Guidelines and Development Standards provide for the protection of public views, but only provide for the consideration of private views. The County has considered potential public and private view impacts from the

proposed project, including the second story 422 sq. ft. addition to the existing 16 ft. high residence. The second story of 422 sq. ft. addition would be a maximum 23 ft. in height. The County determined that any view impacts would be minor and that, as noted above, the residential additions would be compatible with the character of the community.

Further, the County found that the project would not have the potential to block views from any public road or public viewing area. The County's findings indicate that the views from beach towards the mountains would not be blocked due to intervening topography, the existing residence between the beach and the subject property, the fact that the second story addition would be less than 23 feet in height, and the fact that there is a significant distance from the public beach to the proposed addition location (more than 500 linear feet). (Exhibit 7) Regardless, issues regarding private views are not a standard of review under the Coastal Act.

Thus, a review of the record shows that the County has supported the findings that the project is consistent with all view protection policies of the LCP.

d. Construction Related Impacts, Noise, Lighting, Project Changes

The appellants have also appealed the County's final action citing a list of general concerns about the project. The appellants assert the appeal raises issues regarding "parking and access during construction, construction noise and debris, pool equipment noise, lighting, other required findings not made, and mid-project changes made between the Montecito Board of Architectural Review hearing and the Montecito Planning Commission meeting as well as changes made between the Montecito Commission hearing and the Board of Supervisors meeting." The appellants have not cited applicable LCP policies related to the list of issues above.

In its approval of the coastal permit for this project, the County has required several conditions to prevent project impacts related to parking and access during construction, construction noise and debris, and lighting. (Exhibit 5) The County's coastal permit requires the applicant to submit a detailed construction parking plan pursuant to Condition 3, including a construction timeline, the location of parking during construction, the number of vehicles that will be parked, and a provision requiring that onsite and 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. The coastal permit includes several conditions to prevent construction noise and debris. Condition 4 (Construction Hours), would limit construction hours to between 7:00am and 4:30pm. Condition 5 (Equipment Washout) requires a designated washout area and removal of polluted water. Condition 8 (Solid Waste) requires trash and debris collection and removal. Condition 7 of the permit requires a lighting plan to ensure that any exterior night lighting installed on the project is of low intensity, low glare design, minimum height, hooded to direct light downward and prevent spillover onto adjacent lots, and lights must be dimmed after 10pm.

Additionally, the appellants raise the issue of pool equipment noise. The County's findings indicate that the pool equipment will be enclosed and will be "quiet design" equipment and any noise from the pool equipment would meet and exceed the County's noise protection standard of

65 decibels. The County found that the pool equipment would emit noise levels of 58.3 decibels at 10 ft. from the equipment and all pool equipment will be located more than 10 feet from all property lines and 56 feet from the southern property line. According to the record, at its location 56 feet away from the appellants' property line, the pool equipment would result in noise levels of approximately 34.3 decibels. Thus, the County has thoroughly addressed concerns related to pool equipment noise.

Additionally, the appellants raised vague allegations that the project raises issues related "other findings not made, and mid-project changes made between the Montecito Board of Architectural Review hearing and the Montecito Planning Commission meeting as well as changes made between the Montecito Commission hearing and the Board of Supervisors meeting." The project approved by the Board of Supervisors differs from the project approved by the Montecito Planning Commission in that the pool and spa have been shifted slightly and the applicant amended the project description to add a 169 sq. ft. 9 ft. tall flat-roofed carport addition. However, it appears that some project changes after the initial hearings were made in response to the appellants' concerns regarding construction related impacts and concerns regarding exterior night lighting. For example, after the appellants' appeal of the Montecito Planning Commission approval to the Board of Supervisors, the County clarified coastal permit conditions regarding construction parking and lighting to respond to the appellants' concerns.

Thus, although the appellants have not cited applicable LCP policies related to the list of issues above, the Commission finds that the County addressed the above referenced issues and has supported the findings that the project is consistent with all relevant policies of the LCP.

2. Substantial Issue Factors Considered by the Commission

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., Title 14, Section 13115(b)).

In evaluating the issue of whether the appeals raise a substantial issue, the Commission considers the following factors:

- 1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;*
- 2. The extent and scope of the development as approved or denied by the local government;*
- 3. The significance of coastal resources affected by the decision;*
- 4. The precedential value of the local government's decision for future interpretation of its LCP; and*
- 5. Whether the appeal raises only local issues, or those of regional or statewide significance.*

In this case, based on the analysis above, the County has provided a high degree of factual and legal support for the decision that the proposed development is consistent with the certified LCP policies related to: (1) non-conforming uses, (2) environmentally sensitive habitat area, (3) private views of the mountains and protection of residential privacy, and (4)

other issues including: parking and access during construction, construction noise and debris, pool equipment noise, lighting, and mid-project changes.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development as approved by the County. The subject approval allows for relatively minor additions to an existing single family residence on a 0.42 acre parcel in a developed residential area of Montecito. The project includes minor residential additions to an existing 3,302 sq. ft. single family residence, including 29 sq. ft. first floor and 422 sq. ft. second floor addition, 130 sq. ft. garage addition, carport, demolition of approximately 83 sq. ft. of existing residential sq. ft., demolition and reconstruction of pool, construction of a new wall and entry gates, installation of new landscape and hardscape materials and 98 cu. yds. grading. In analyzing the factors relevant to the issue of whether this appeal raises a substantial issue, the Commission finds that the extent and scope of the residential additions is relatively minor.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decision. In this case, there would be no significant coastal resources affected by the decision. As previously discussed, the project site developed with a single-family residence and is located in a residentially zoned area. There is no ESHA on the parcel or immediately adjacent to the parcel and no public views would be impacted and the residential additions would be in character with the neighboring community. Thus, no significant coastal resources would be affected by the decision.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the local government's decision for future interpretation of its LCP. In this case, as described above, the Commission finds that the project is consistent with the policies of the LCP with respect to the grounds of appeal. As such, the County's decision will have no adverse precedential value for future CDP decisions.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. In this case, the approved project for minor residential additions is consistent with the policies and provisions of the LCP, will not result in any adverse impacts to coastal resources, and does not have any regional or statewide significance.

In conclusion, the Commission finds that the approved project conforms to the policies and provisions of the LCP related to non-conforming uses, environmentally sensitive habitat area, views, and construction related aspects, that the extent and scope of the subject project is minor, and that no significant coastal resources would be affected. The project approval will not be a precedent for future residential developments and the visual resource and noticing issues raised by the appeal relate only to local issues. Therefore, the Commission finds that the assertions of the appeal do not raise a substantial issue.

E. CONCLUSION

For the reasons discussed above, no substantial issue is raised with respect to the consistency of the approved development with the policies of the County's certified LCP. Applying the five

factors identified above, the Commission finds the County's record adequately supports its position that the proposed project is consistent with the applicable LCP policies. In addition, the development is relatively minor in scope, doesn't have a significant adverse effect on significant coastal resources, has little precedential value, and doesn't raise issues of regional or statewide significance. Therefore, the Commission finds that the appeal does not raise a substantial issue as to the County's application of the cited policies of the LCP.

APPENDIX A:

SUBSTANTIVE FILE DOCUMENTS: Santa Barbara County Board of Supervisors Action Letter, dated February 28, 2012; Santa Barbara County Staff Report for Dent Appeal of the Montecito Planning Commission Approval of the Van Vliet Additions Project (10APL-00000-00019), dated February 21, 2012; Santa Barbara County Board of Supervisors Agenda Letter dated February 7, 2012; Santa Barbara County Staff Report to the Montecito Planning Commission for Case No. 11CDH-00000-00008, dated August 5, 2011; CEQA Notice of Exemption, dated February 21, 2012; Montecito Planning Commission Action Letter, dated August 26, 2011; Notice of Appeal to the Board of Supervisors, Request for Facilitation, dated September 8, 2011.

Project Location

PACIFIC

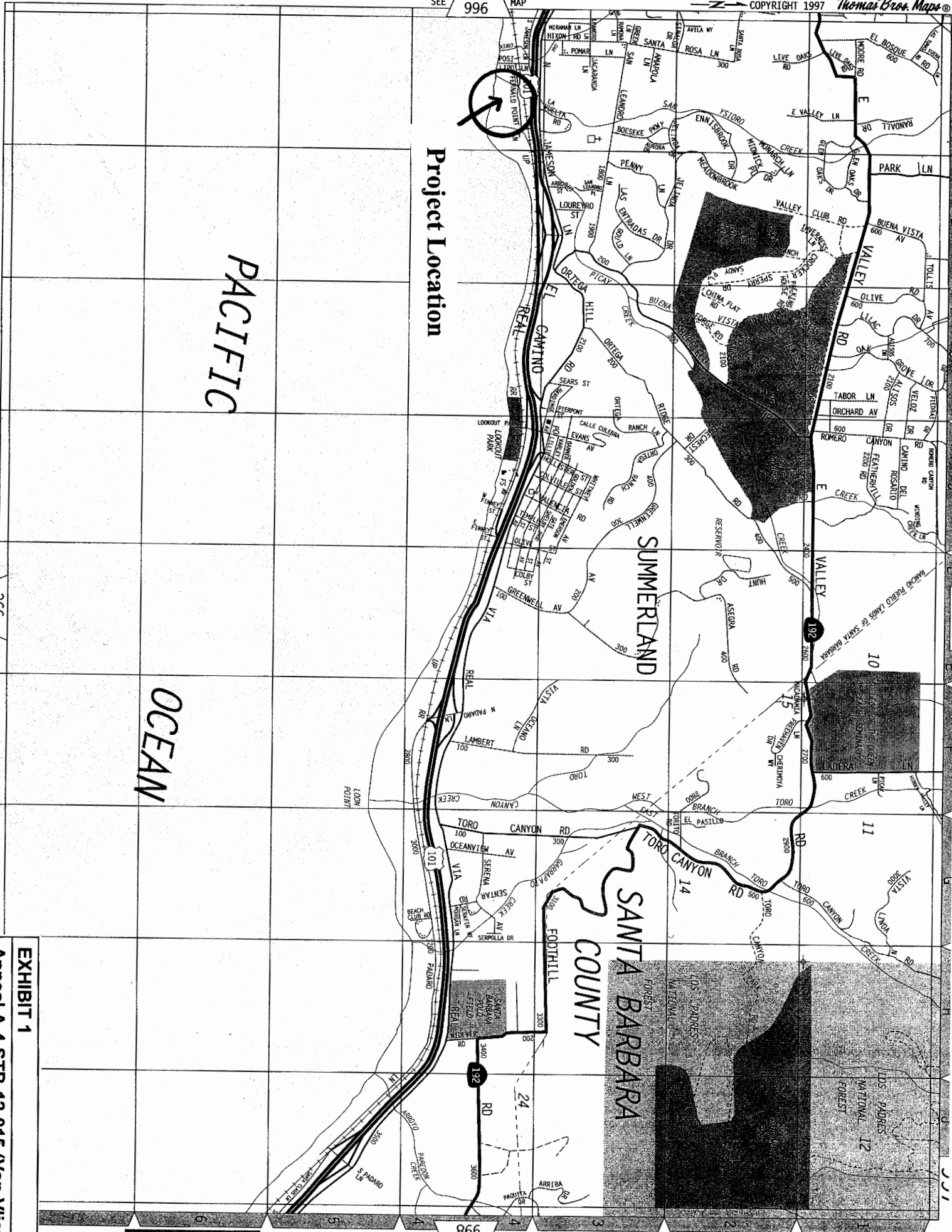
OCEAN

SEE 366 MAP

EXHIBIT 1

Appeal A-4-STB-12-015 (Van Vleet)

Vicinity Map



Subject Parcel

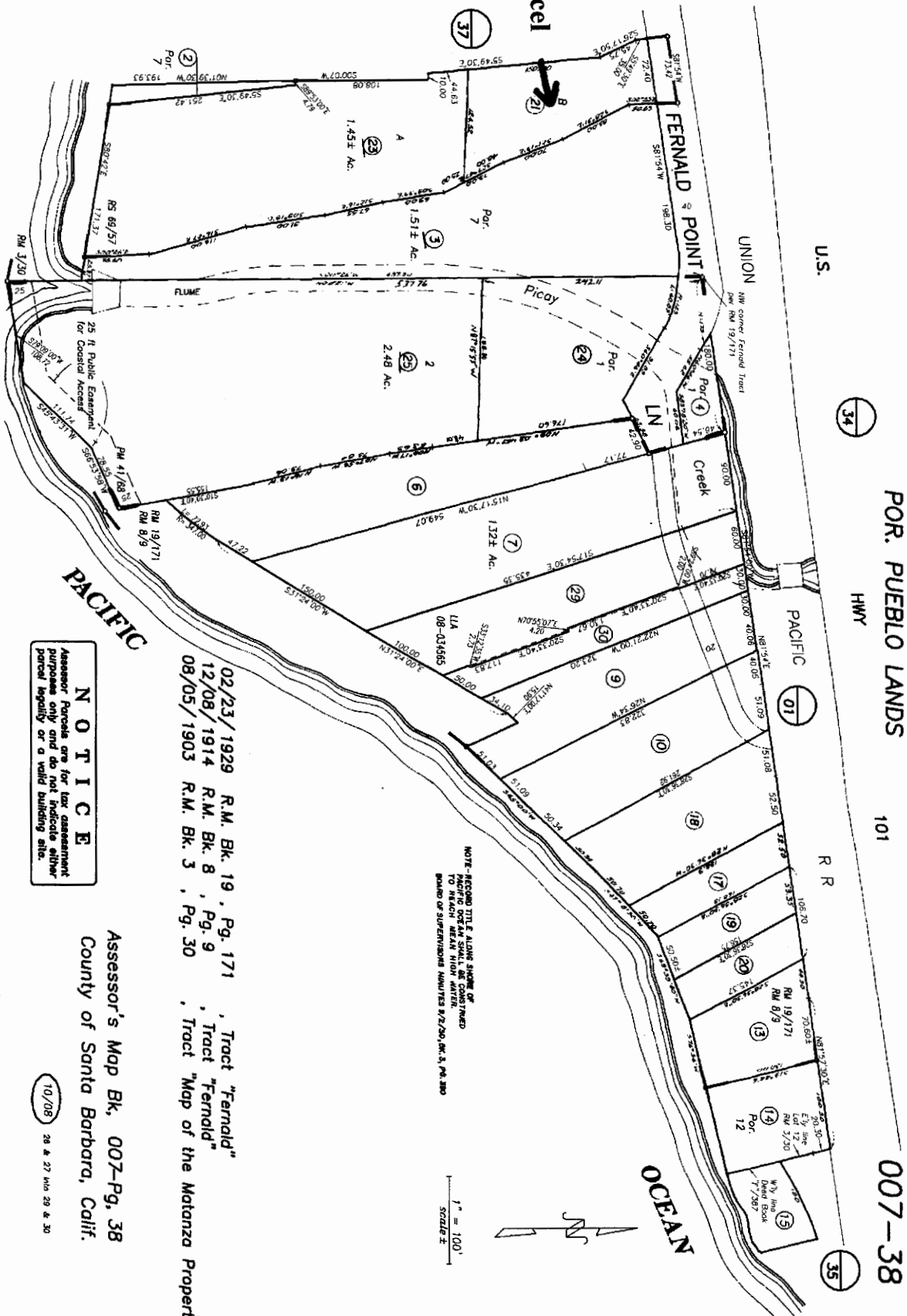


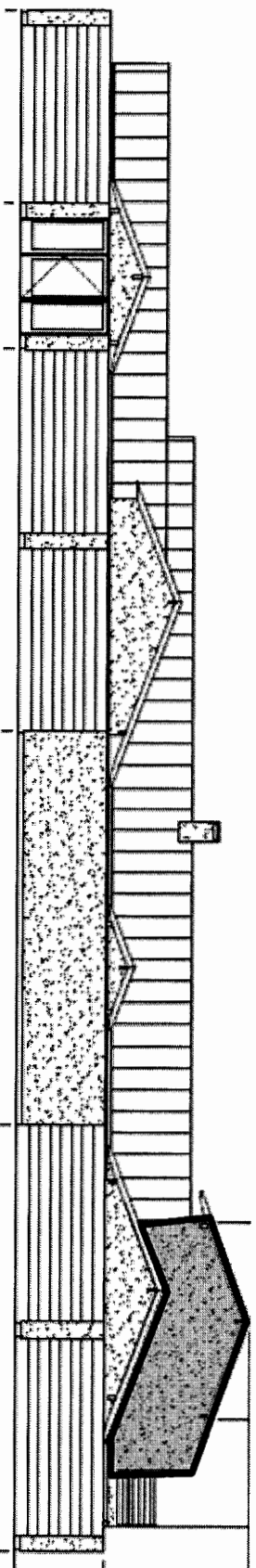
EXHIBIT 2
Appeal A-4-STB-12-015 (Van Vliet)
Parcel Map

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

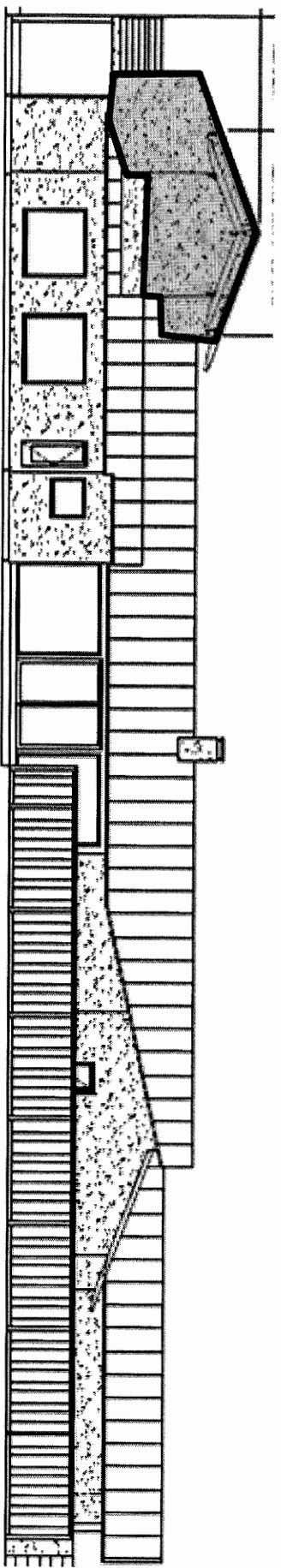
02/23/1929 R.M. Bk. 19, Pg. 171
12/08/1914 R.M. Bk. 8, Pg. 9
08/05/1903 R.M. Bk. 3, Pg. 30
Tract "Map of the Matanza Property"

NOTICE
Assessor's Map are for tax assessment
purposes only and do not indicate either
parcel legally or a valid building site.

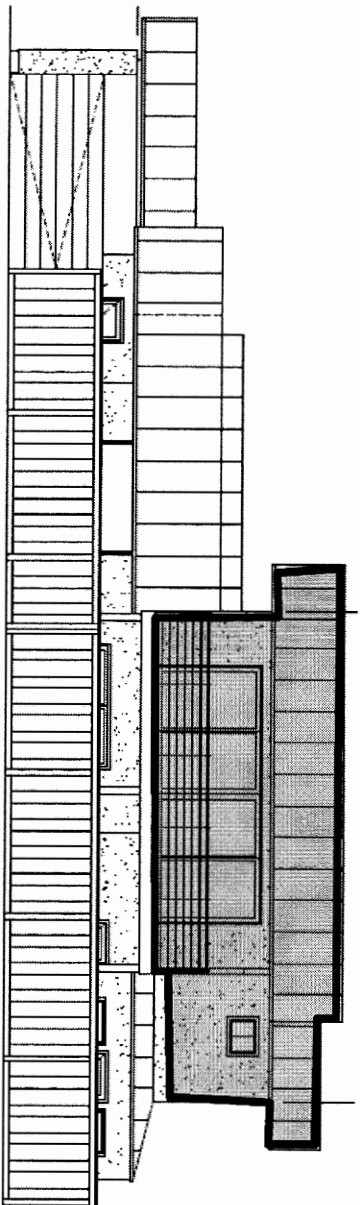
10/08 26 & 27 Map 29 & 30



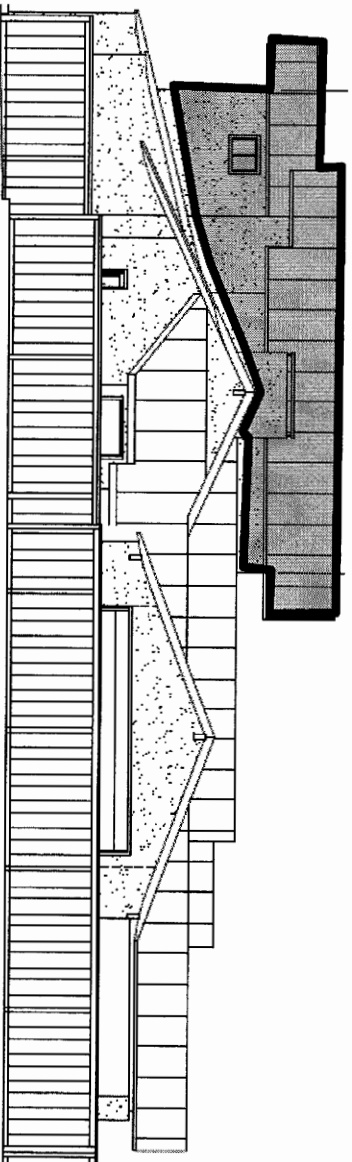
West Elevation



East Elevation



South Elevation



North Elevation

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1801 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form

Received

SECTION I. Appellant(s)

MAR 12 2012

Name: Margaret J. Dent, et al. (see Attachment I)

Mailing Address: 1711 Fernald Point Lane

California
Coastal Commission

City: Santa Barbara

Zip Code: 93108

Phone: (805) 966-1501

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Barbara, Board of Supervisors, Planning & Development Department

2. Brief description of development being appealed:

Three 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, 9 foot tall, flat-roofed 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.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

1717 Fernald Point Lane, Santa Barbara (APN 007-380-021)

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

EXHIBIT 4

Appeal A-4-STB-12-015 (Van Vliet)

Appeal (5 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: February 27, 2012 (Notice of Final Action after 2/21/12 meeting)

7. Local government's file number (if any): 11APL-00000-00019; 11CDH-00000-00008

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Project Applicant:

Jennifer Foster
P.O. Box 591
Summerland, CA 93067

Property Owners:

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

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Richard Monk, for Applicant
Hollister & Brace, APC
P.O. Box 630
Santa Barbara, CA 93102

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The proposed project is inconsistent with County land use and zoning ordinances regarding nonconforming uses. Coastal Zoning Ordinance section 35-160 et seq. and Montecito Land Use & Development Code chapter 35.491 allow the continuation of nonconforming uses but seek to avoid the enlargement, expansion or extension of such nonconforming uses. Nonconforming use includes a use of land in a manner that does not now conform with the ordinances including but not limited to floor area ratios and minimum site area. The subject parcel is in the 1-E-1 zone, which requires parcels to be a minimum of 1 acre. The subject parcel is nonconforming as to size (.42 acres). The proposed project seeks to enlarge, expand or extend the existing nonconforming use by increasing the size of the residence. The proposed residence would be 23% over the recommended Floor Area Ratio.

The County has failed to consider relevant Coastal Land Use Plan policies, including, but not limited to, Policies 2-11 and 9-1, regarding potential adverse impacts of the proposed project on adjacent environmentally sensitive habitat areas. A new hearing to consider the potential impacts and to determine consistency with applicable policies is required.

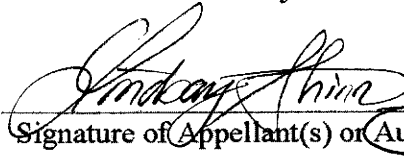
The proposed project is inconsistent with Montecito Community Plan Goal LU-M-1, and the Montecito Architectural Guidelines and Development Standards adopted pursuant thereto. Goal LU-M-1 seeks to protect residential privacy and to the maximum extent feasible private views of the mountains. The proposed project interferes with Appellants' scenic view of the mountains and violates a recorded scenic easement, in addition to interfering with privacy. The County failed adequately to consider and protect privacy and private views in accordance with the requirements of the Montecito Community Plan.

In addition to the above, Appellants have objections and concerns regarding parking and access during construction, construction noise and debris, pool equipment noise, lighting, other required findings not made, and mid-project changes made between the Montecito Board of Architectural Review hearing and the Montecito Planning Commission meeting as well as changes made between the Montecito Planning Commission hearing and the Board of Supervisors meeting.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

 Mullen & Henzell L.L.P.
Signature of Appellant(s) or Authorized Agent

Date: March 9, 2012

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

Lindsay G. Shinn and Mullen & Henzell L.L.P.
to act as my/our representative and to bind me/us in all matters concerning this appeal.


Signature of Appellant(s)

Date: 3/8/12

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Attachment I

Appellants

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.



4515-12-023
County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director
Dianne Black, Director of Development Services
Jeffrey S. Hunt, Director of Long Range Planning

Received

NOTICE OF FINAL ACTION

FEB 29 2012

February 27, 2012

California
Coastal Commission

On February 21, 2012 Santa Barbara County took final action on the appealable development described below:

☒ Appealable Coastal Development Permit [11CDH-00000-00008]

Project Applicant:

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

Property Owner:

Alan and Kathryn Van Vliet
1717 Fernald Point Lane
Santa Barbara, CA 93108
(818) 437-7800

Project Description: Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned 1-E-1 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, 9 foot tall, flat-roofed 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; 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.

Location: The project involves APN AP No. 007-380-021, located at 1717 Fernald Point Lane, in the Montecito area, First Supervisorial District, Santa Barbara County, California.

The receipt of this letter and the attached materials start the 10 working day appeal period during which the County's decision may be appealed to the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office.

Please contact Nicole Lieu, the case planner at (805) 884-8068 if you have any questions regarding the County's action or this notice.


Nicole Lieu, Project Planner

2-27-12
Date

Attachments:

Final Action Letter dated February 27, 2012

cc: Jennifer Foster, P.O. Box 591, Summerland, CA 93067
Alan and Kathryn Van Vliet, 1717 Fernald Point Lane, Santa Barbara, CA 93108

Lindsay G. Shinn, Mullen & Henzel, LLP, 112 E. Victoria Street, Santa Barbara,
CA 93101

Margaret J. Dent, Trustee, et. al., 1711 Fernald Point Lane, Santa Barbara, CA
93108



County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Director of Development Services

Jeffrey S. Hunt, Director of Long Range Planning

Received

FEB 29 2012

California
Coastal Commission

February 28, 2012

Lindsay G. Shinn
Mullen & Henzel, LLP
112 E. Victoria Street
Santa Barbara, CA 93101

BOARD OF SUPERVISORS
HEARING OF FEBRUARY 21, 2012

RE: *Dent Appeal of the Montecito Planning Commission's Approval of the Van Vliet Additions Project; 11APL-00000-00019*

Hearing to consider the Dent appeal of the Montecito Planning Commission's approval of the Van Vliet residential addition. The application involves AP No. 007-380-021, located at 1717 Fernald Point Lane, in the Montecito area, First Supervisorial District.

Dear Ms. Shinn:

At the Board of Supervisors' hearing of February 21, 2012, Supervisor Carbajal moved, seconded by Supervisor Lavagnino and carried by a vote of 5 to 0 to:

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 the Board Agenda Letter, dated February 21, 2012;
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 the Board Agenda Letter, dated February 21, 2012); and
4. Grant *de novo* approval the Coastal Development Permit subject to the conditions included as Attachment-3 of the Board Agenda Letter, dated February 21, 2012, as revised at the hearing of February 21, 2012.

REVISIONS TO THE CONDITIONS

Condition No. 1 is amended:

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, 9 foot tall, flat-roofed 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.

Condition No. 3 is amended:

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 and on-site 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.

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. Prior to Coastal Development Permit issuance the applicant shall prepare a Lighting Plan. The Lighting Plan shall include a site plan that graphically illustrates the location and type of each light, and shall include lighting cut sheets, all in compliance with this condition. The Lighting Plan shall be submitted to the MBAR for preliminary/final approval and review, The neighbor at 1711 Fernald Point Road shall be given notice of the MBAR hearing and an opportunity to review and comment on the Lighting Plan.

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.

The Findings and the Conditions of Approval reflect the action of the Board of Supervisors and are included in this letter as Attachment-1 and Attachment-3.

Dianne M. Black

cc: Case File: 11APL-00000-00019
Clerk of the Board
Montecito Association, P.O. Box 5278, Santa Barbara, CA 93108
Owner: Alan and Kathryn Van Vliet, 1717 Fernald Point Lane, Santa Barbara, CA 93108
Agent: Jennifer Foster, P.O. Box 591, Summerland, CA 93067
Appellant: Margaret J. Dent, Trustee, et. al 1711 Fernald Point Lane, Santa Barbara, CA 93108
County Chief Appraiser
County Surveyor
Fire Department
Community Services Department
Public Works
Environmental Health Services
APCD
Rachel Van Mullem, Senior Deputy County Counsel
Nicole Lieu, Planner

Attachments: 1-Findings
3-Conditions of Approval

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 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, 9 foot tall, flat-roofed 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 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 and on-site 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. Prior to Coastal Development Permit issuance the applicant shall prepare a Lighting Plan. The Lighting Plan shall include a site plan that graphically illustrates the location and type of each light, and shall include lighting cut sheets, all in compliance with this condition. The Lighting Plan shall be submitted to the MBAR for preliminary/final approval and review. The neighbor at 1711 Fernald Point Road shall be given notice of the MBAR hearing and an opportunity to review and comment on the Lighting Plan.

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**

Our Vision © Clean Air

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:

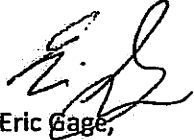
1. Standard dust mitigations (**Attachment A**) are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.
2. APCD Rule 345, *Control of Fugitive Dust from Construction 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 Page,

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:

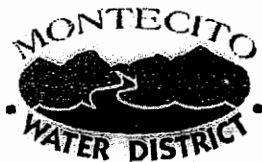
- All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel 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

Tom Mosby, General Manager

By

Alan & Kathryn Van Vliet

Acct No 08-1834-00

ATTACHMENT 4:
BOARD OF SUPERVISORS
MINUTE ORDER



County of Santa Barbara
BOARD OF SUPERVISORS

Minute Order

February 21, 2012

Present: 5 - Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Gray,
and Supervisor Lavagnino

PLANNING AND DEVELOPMENT

File Reference No. 12-00110

RE: HEARING - Consider recommendations regarding 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 District, as follows: (EST. TIME: 30 MIN.)

- a) Deny the appeal, Case No. 11APL-00000-00019, thereby upholding the Montecito Planning Commission's approval of Case No. 11CDH-00000-00008,
- b) Make the required findings for approval of the project, Case No. 11CDH-00000-00008;
- c) Determine that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c) of the State Guidelines for Implementation of CEQA; and
- d) Grant de novo approval of the Coastal Development Permit subject to the conditions of approval.

COUNTY EXECUTIVE OFFICER'S RECOMMENDATION: POLICY

Received and filed staff presentation and conducted public hearing.

A motion was made by Supervisor Carbajal, seconded by Supervisor Lavagnino, that this matter be Acted on as follows:

- a) Denied the appeal.
- b) Approved. Directed staff to amend the project description by lowering the carport roof height by 4 feet as presented by staff at the hearing and adding the Lighting Condition/Plan reflected as #5 on page 3 of the Mullen and Henzell letter dated February 16, 2012.

c) and d) Approved.

The motion carried by the following vote.

Ayes: 5 - Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Gray,
and Supervisor Lavagnino

Fernald Point Neighborhood Study						
Address (Fernald Point Lane)	APN	House Square Footage	Year built	Parcel Size (Acres)	FAR Guideline Limit	Square Footage/% over Guideline
1639	007-374-011	4043	1973	.5	3050	+993/32%
1649	007-374-012	3637	1973	.5	3050	+587/19%
1651	007-374-013	2140	1940	.71	3575	0%
1655	007-374-002	7986 + 904 att. garage	2006	1.13	4521	+3569/79%
1661	007-374-003	3438	1956	.47	2975	+463/16%
1665	007-374-004	5454	1955	1.0	4300	+1154/27%
1685	007-374-006	7309	1920	2.54	6918	+391/5%
1695	007-374-007	4077	1965	1.78	5626	0%
1703	007-374-010	3590	1912	1.11	4487	0%
1705	007-374-009	2724		.57	3225	0%
1711	007-380-023	5772	1920	1.45	6765	0%
1727	007-380-003	9668 + 861 att. garage	1919 & 2007	1.51	5167	+4562/88%
1745	007-380-024	3312	1983	.76	3700	0%
1755	007-380-025	9954		2.3	6510	+3444/53%
1767	007-380-006	3896	1930	1.0	4300	0%
						Average % over FAR = 41%
Properties Inside Private, Gated Area of Fernald Point						
1775	007-380-007	6067	1930	1.32	4844	+1223/25%
1787	007-380-029	6267		.74	3650	+2617/72%
1801	007-380-009	8371 + 874 att. garage	1995	.65	3425	+5020/146%
1803	007-380-010	6865	1995	.61	3325	+3540/106%
1807	007-380-018	6369	1958	.53	3125	+3244/104%
1809	007-380-017	3447	1970	.21	2325	+1122/48%
1811	007-380-019	2860	1966	.19	2275	+585/25%
1813	007-380-020	2771	1973	.17	2225	+546/25%
1815	007-380-013	4743	1958	.30	2550	+2193/86%
1821	007-380-014	3240 + 1200 att. garage	1973	.29	2525	+1115/44%
						Average % over FAR = 68%

EXHIBIT 6
Appeal A-4-STB-12-015 (Van Vliet)
Study of FAR for Fernald Point Lane

From Beach

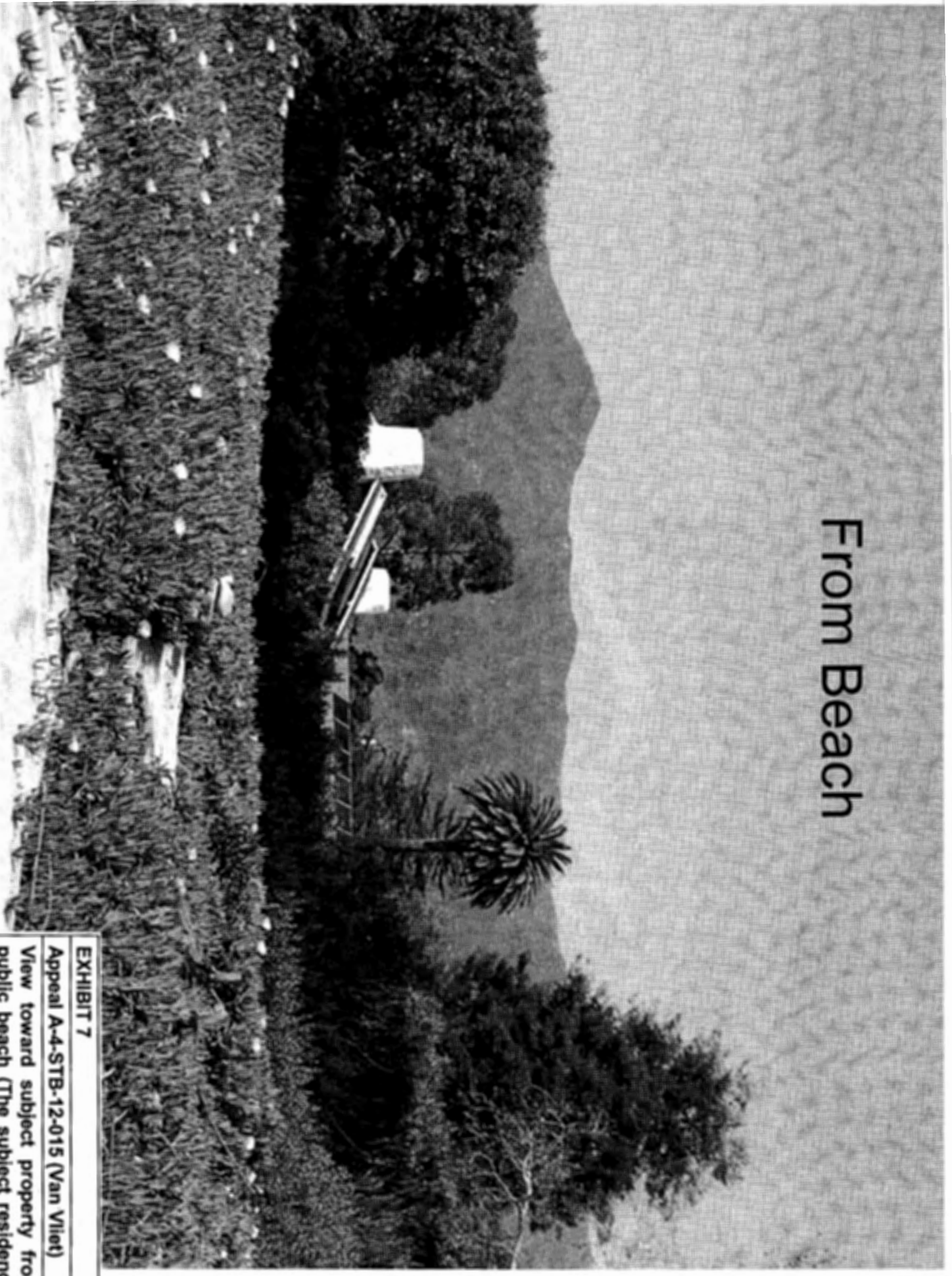


EXHIBIT 7

Appeal A-4-STB-12-015 (Van Vliet)

View toward subject property from public beach (The subject residence is behind residence visible in foreground)