

CALIFORNIA COASTAL COMMISSION

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



Th16a

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ADDENDUM

DATE: October 31, 2016
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item Th16a, Santa Barbara County Appeal No. A-4-STB-16-0076 (Olsten Montecito Trust), Thursday, November 3, 2016

The purpose of this addendum is to (1) correct a minor error on Exhibit 4 of the October 13, 2016 staff report, (2) correct a minor error on Pages 2, 7, 11 and 16 of the October 13, 2016 staff report regarding the height of the new residence, and (3) to correct two minor errors on Pages 2, 7, 15 and 16 of the October 13, 2016 staff report regarding the hearing history for the proposed development.

1. Minor Correction to Exhibit 4. Exhibit 4 of the staff report is labeled as “South-Facing Elevation” in error. Exhibit 4 shall be modified to be labeled as the “North-Facing Elevation.”
2. Minor Correction to Height of Proposed Residence. Pages 2, 7, 11 and 16 of the staff report list the height of the new residence as 22 feet, 4 inches in error. The staff report shall be modified to indicate the height of the new residence as 22 feet, 6 inches.
3. Minor Corrections to Local Hearing History. Pages 2, 7, 15 and 16 of the staff report include references to the local hearing history for the proposed development. Page 7 of the staff report shall be modified to include an additional local hearing held by the Montecito Planning Commission on May 20, 2015 and an additional local hearing held by the Montecito Board of Architectural Review on October 12, 2015. Pages 2, 15 and 16 of the staff report shall be modified to indicate that the Montecito Board of Architectural Review reviewed the proposed development on seven separate occasions.

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VENTURA, CA 93001
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Th16a



Appeal Filed: 08/19/16
49th Day: Waived
Staff: M. Sinkula - V
Staff Report: 10/13/16
Hearing Date: 11/03/16

STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE

APPEAL NUMBER: A-4-STB-16-0076

APPLICANT: Olsten Montecito Trust

PROJECT LOCATION: 1154 Channel Drive (APN 009-352-019), Santa Barbara County

APPELLANT: Olive Mill Trust via Trustee Michael Hair

PROJECT DESCRIPTION: Demolition of an existing 3,802 sq. ft. two-story single family residence and 520 sq. ft. attached garage and construction of a new 3,187 sq. ft. two-story single family residence, 881 sq. ft. basement, 680 sq. ft. detached garage, and 570 sq. ft. pool cabana at 1154 Channel Drive, Montecito, Santa Barbara County.

STAFF RECOMMENDATION: No Substantial Issue

MOTIONS & RESOLUTIONS: Pages 6-7

NOTE: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally, and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the *de novo* phase of the hearing will occur at a future Commission meeting during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

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 **pages 6-7**. The approved project includes the demolition of an existing 3,802 square foot two-story residence, 520 square foot attached garage, and swimming pool, and the construction of a new 3,187 square foot two-story single family residence, 881 sq. ft. basement, 680 square foot detached garage, swimming pool and 570 square foot pool cabana located at 1154 Channel Drive in the Montecito area of Santa Barbara County (Exhibits 3 and 6). The maximum height of the main residential structure will be 22 feet, 4 inches high (Exhibits 3 and 6). The project site is located on a 0.44-acre parcel that lies landward of Channel Drive and within the first line of development from the beach in an urban, residential neighborhood (Exhibits 1 and 2).

The appellant contends that the approved project is not consistent with policies and provisions of Santa Barbara County’s certified Local Coastal Program (LCP) with regard to: (1) private views of the ocean and the protection of residential privacy, (2) public views of the mountains, (3) the overall size, bulk and scale of the project, (4) night lighting impacts, (5) glare created by windows on the main residential structure, (6) amount of cut and fill and the potential air quality and traffic impacts caused by the removal and export of this soil, (7) the location of the cabana accessory structure, and (8) the County’s finding that the project is exempt from the California Environmental Quality Act (Exhibit 8). Specifically, the appellant asserts that the approved project does not conform with Land Use Plan Policies 1-4, 3-13, and 4-4, Coastal Zoning Ordinance Sections 35-71.1, 2.2.1, 2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.3.1, and 2.3.2, Coastal Act Policies 30251 and 30253(d), and Montecito Community Plan Policies PRT-M-1.6, AQ-M-1.3, LU-M-2.1, LU-M-2.2, VIS-M-1, and VIS-M-1.3 (Exhibit 8). 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 appellant raises in the appeal.

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.” In previous decisions on appeals, the Commission has been guided by five factors, which are: 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 and with the public access policies of the Coastal Act; 2) the extent and scope of the development as approved or denied by the local government; 3) the significance of the coastal resources affected by the decision; 4) the precedential value of the local government’s decision for future interpretations of its LCP; and 5) whether the appeal raises only local issues, or those of regional or statewide significance.

Applying these five substantial issue factors to the issues raised by the subject appeal and the administrative record for the County’s action indicates that the County’s findings for approval of the project are legally and factually supported. The Montecito Board of Architectural Review (MBAR) has reviewed the design elements of the project on six separate occasions to ensure conformity with the LCP, and the County has imposed

conditions on the subject coastal development permit to require further MBAR approval of the final project design elements and landscaping plan prior to permit issuance, as well as a final lighting plan prior to permit issuance to prevent spill-over of night lighting onto adjacent lots. In addition, the approved project for the demolition of an existing single-family residence and the redevelopment of the site with a residence of similar size, bulk and scale within an urban, residential neighborhood, is relatively minor in scope. Further, the approved project will not have any significant adverse effects on coastal resources, and because the project, as approved, conforms to the applicable and cited LCP policies and provisions, it will not have an adverse precedential value or raise issues of regional or statewide significance. Therefore, the proposed project does not raise a substantial issue regarding the project's conformance with the relevant LCP policies, including the Montecito Community Plan and its associated guidance document the Montecito Architectural Guidelines and Development Standards, and the Coastal Act, which is incorporated into the LCP through Policy 1-1 to guide interpretation of the County's LCP. As more fully described in the findings below (Section III), staff recommends the Commission find that no substantial issue exists with regard to the grounds of the appeal.

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APPENDIX 1 Substantive File Documents

EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Aerial View of Project Site
- Exhibit 3. Project Plans
- Exhibit 4. Elevations
- Exhibit 5. Photo of Existing Single Family Residence
- Exhibit 6. Final Local Action Notice
- Exhibit 7. Air Pollution Control District Conditions
- Exhibit 8. Appeal No. A-4-STB-16-0076
- Exhibit 9. Correspondence

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 (CDP) 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 CDP 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, along or within 100 feet of natural watercourses, or 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 the 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 County's CDP approval is appealable to the Coastal Commission because the permitted development is located within 300 feet of the inland extent of the beach.

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 the Coastal Act (See Public Resources Code 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 members of the Commission 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 exists, 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 proposed development is in conformity with the certified Local Coastal Program and, if the development is between the sea and the first public road paralleling the sea, the public access and recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On July 19, 2016, the County of Santa Barbara approved the subject Coastal Development Permit (No. 14CDH-00000-00014) to allow the demolition of an existing 3,802 square foot two-story residence and 520 square foot attached garage, and the construction of a new 3,187 square foot, two-story single-family dwelling, 881 square foot basement, 680 square foot detached garage, and 570 square foot pool cabana on a 0.44-acre urban, residential property (APN 009-352-019) in Montecito (Exhibit 6).

The Notice of Final Action for the approved Coastal Development Permit (CDP) was received by Commission staff on August 8, 2016 (Exhibit 6). A ten working-day appeal period was set and notice of this was provided beginning August 9, 2016, and extending to August 22, 2016.

An appeal of the County's action was filed by Michael Hair (as Trustee for Olive Mill Trust) on August 19, 2016, during the appeal period (Exhibit 8). Commission staff notified the County, the applicant, and interested parties that were listed on the appeal form and requested that the County provide its administrative record for the permit. The administrative record was received on October 4, 2016.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION:

I move that the Commission determine that Appeal No. A-4-STB-16-0076 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 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-16-0076 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 Local Coastal Program 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

On July 19, 2016, Santa Barbara County's Board of Supervisors approved a coastal development permit (14CDH-00000-00014) to allow the demolition of an existing 3,802 square foot two-story single family residence (first floor: 3,136 sq. ft.; second floor: 666 sq. ft.), 520 square foot attached garage, and swimming pool, and the construction of a new 3,187 square foot two-story single family residence (first floor: 1,935 sq. ft.; second floor: 1,252 sq. ft.), 881 square foot basement, 680 square foot detached garage, swimming pool and 570 square foot pool cabana (Exhibit 6). The new second floor would be 586 square feet larger than the existing second floor of the residence, such that the new second floor would laterally increase the massing of the existing second story by thirteen feet (for a total lateral width of 40 feet, 6 inches). The new residence is proposed to be 22 feet, 4 inches in height (Exhibits 3 and 6). The project will require approximately 60 cubic yards of grading onsite, as well as 500 cubic yards of cut and soil export to construct the basement and swimming pool (Exhibit 6).

The project site is located at 1154 Channel Drive in the Montecito area of Santa Barbara County and within the first line of development along the coast (Exhibits 1 and 2). The site is located on a 0.44-acre parcel (009-352-019) on the landward side of Channel Drive within an urban, residentially zoned area of Montecito (Exhibits 1 and 2). Since the subject parcel is zoned E-1, which is designated as a minimum one-acre lot size, the parcel is considered to be legal, non-conforming as to lot size (Exhibit 6). The parcel contains an existing two-story residence that was constructed in 1975 (Exhibit 5). The immediate neighborhood is comprised of both one and two story residences. Six of the eleven residential main structures along Channel Drive have a second story or a second story element in their design. It is also important to note that a majority of residences within this neighborhood can be characterized as large homes on small lots.

In 2014, the proposed project received design review by the Montecito Board of Architectural Review (MBAR) on six separate occasions (May 5th, August 25th, October 6th, November 3rd, December 1st, and December 15th), including a MBAR site visit conducted before its November 3rd hearing. On December 15, 2014, the MBAR took a straw vote and determined that the project, as designed, was compatible with the neighborhood. The applicant was directed to return to the MBAR for final design review approval subsequent to obtaining approval for the project from the Montecito Planning Commission. On January 20, 2016 and February 17, 2016, the project was reviewed by the Montecito Planning Commission, and the project was denied by the Montecito Planning Commission on March 23, 2016. The applicant appealed the Montecito Planning Commission's denial of the project to the Santa Barbara County Board of Supervisors,

and on July 19, 2016, the Board of Supervisors approved the project. On August 19, 2016, the appellant appealed the County's approval of the project to the Coastal Commission (Exhibit 8).

The County's approval of the project is conditioned to require additional MBAR approval for project design elements, including but not limited to design, scale, character, colors, materials, and landscaping prior to issuance of the coastal development permit for the project (Exhibit 6). This condition requires the MBAR to verify that the landscaping proposed by the project will not impact existing private views of the ocean. The County's approval of the project was also conditioned to require the MBAR's approval of a lighting plan prior to issuance of the subject coastal development permit. The condition specifies that this plan must adhere to the following parameters—all exterior night lighting of the project site shall be low intensity, low glare, installed at a minimum height, hooded to direct light downward onto the subject lot and prevent spill-over onto adjacent lots; and, all lighting shall be dimmed after 10:00 p.m.

The parcel does not contain any environmentally sensitive habitat area and no native vegetation is proposed to be removed for this project.

Correspondence Received

Exhibit 9 contains email correspondence received from the appellant's representative, Susan Petrovich, on October 12, 2016 that re-iterates the grounds raised in the appellant's appeal.

B. SUMMARY OF APPEAL CONTENTIONS

The County's action was appealed by Michael Hair, Trustee of Olive Mill Trust. The appeal was filed on August 19, 2016 (Exhibit 8). The appeal asserts that the approved project is inconsistent with the policies and provisions of Santa Barbara County's certified Local Coastal Program with regard to: (1) protection of private views of the ocean and protection of residential privacy, (2) protection of public views of the mountains, (3) the overall size, bulk and scale of the project and neighborhood compatibility, (4) night lighting impacts, (5) glare impacts created by windows on the main residential structure, (6) air quality and traffic impacts caused by project grading and the amount of export material, (7) the location of the cabana accessory structure, and (8) the County's finding that the project is exempt from the California Environmental Quality Act (CEQA). Specifically, the appellant contends that the subject project is inconsistent with Land Use Plan Policies 1-4, 3-13, and 4-4, Coastal Zoning Ordinance Sections 35-71.1, 2.2.1, 2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.3.1, and 2.3.2, Coastal Act Policies 30251 and 30253(d), and Montecito Community Plan Policies PRT-M-1.6, AQ-M-1.3, LU-M-2.1, LU-M-2.2, VIS-M-1, and VIS-M-1.3.

The appellant has raised an issue regarding the location of the pool cabana in relation to the swimming pool and have expressed concern that the cabana is not intended to function as a pool cabana, but rather as an extension of the main residential structure. The appellant has not cited applicable LCP policies related to this issue. Although the pool cabana is proposed to be sited on the opposite end of the lot as the proposed location for the swimming pool (which will be located in the same place as the existing swimming pool onsite), it must be noted that the project site consists of a 0.44-acre small and legally non-conforming lot and the siting of accessory structures is constrained. Furthermore, the cabana is not connected to the main residential

structure by an enclosed space and meets all of the applicable LCP criteria for design, siting, and setbacks.

C. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellant relative to the project's conformity to the policies contained in the certified County of Santa Barbara Local Coastal Program (LCP) or the public access policies of the Coastal Act. Thus, the allegation that the County's decision is not in compliance with CEQA requirements is not a valid grounds for appeal of a coastal permit. In addition, the appellant did not cite the public access policies of the Coastal Act as a ground for appeal.

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 appeal raises 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, 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.

1. Private Views and Residential Privacy

The appellant asserts 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 Program related to the protection of private views of the ocean and the protection of residential privacy. The appellant asserts that the project is inconsistent with Montecito Community Plan Goal LU-M-1, and related provisions of the Montecito Architectural Guidelines and Development Standards. The Montecito Community Plan is a component of the County's certified Coastal Land Use Plan.

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.*

As enumerated above, the Montecito Community Plan and the Montecito Architectural Guidelines and Development Standards provide for the protection of public views, but also provide for the consideration of private views. Section III(C) of the Montecito Architectural Guidelines and Development Standards expressly states, as noted above, that “there are no laws which ensure a property owner the right to views and privacy” and further, that consideration of

private views is a guideline, but not a requirement, for the design process. The County has considered potential private view impacts from the proposed project, namely the 586 square foot increase to the new second story as compared to the existing second story, which results in thirteen lateral feet of additional massing on the new second story of the residence. The new residence would be a maximum of 22 feet, 4 inches in height which conforms to the maximum height limit of 25 feet per Section 35-71.10 of Article II of the County's Coastal Zoning Ordinance. The Local Coastal Program (LCP), including the Montecito Community Plan and the Montecito Architectural Guidelines and Design Standards, does not prohibit second stories on main residential structures for residential development within the 1-E-1 zoning designation of the subject lot. Rather, the County's LCP restricts the overall height limit of residential structures (to the maximum of 25 feet), and the proposed project must conform to this restriction. Currently, six of the eleven main residential structures along Channel Drive have either a second story or a second story design element.

In its approval of the project, the County determined that any private view impacts from the proposed (new) second story would be minor and that the project's design would be compatible with the character of the community. As discussed in Section III(A) above, the County conducted multiple hearings regarding the project and considered numerous design iterations intended to address private view impact issues raised by the immediate neighbors of the proposed development. Accordingly, the applicant reduced the initial proposed square footage of the upper story from 1,400 square feet to 1,252 square feet (a reduction of 148 square feet) and reduced the massing in the design of the southeast corner of the proposed new residence to minimize impacts to the appellant's private views of the ocean. Mature landscaping on the lot immediately landward of the subject project site and on the appellant's property currently obstructs the private ocean views from neighboring residences (Exhibit 5). The approved addition of thirteen lateral feet to the second story of the existing residence does not significantly obstruct private views of the ocean or mountains, and the record demonstrates that the applicant has worked with the County to redesign the project to address concerns regarding private view impacts, and the County considered these impacts in its approval. Further, the County has conditioned the project to require a final landscaping plan that must demonstrate maximum protection of private views from neighboring properties (Exhibit 6). In this case, the County has legally and factually supported its findings that the project is consistent with LCP goals regarding the protection of private views.

Additionally, the Montecito Community Plan and the Montecito Architectural Guidelines and Development Standards provide for the consideration of residential privacy during the design process but do not require an applicant to eliminate all private view blockage. As discussed above, the County's Local Coastal Program (LCP) does not prohibit second stories for any residential development within the 1-E-1 residential zoning designation and the protection of residential privacy is a consideration, but not an absolute requirement, for the design review process. In accordance with this guideline, the applicant has redesigned the north facing windows and a previously proposed associated balcony to address the appellant's concerns for privacy. Although the subject windows are over one hundred feet away from the appellant's property and the appellant's residence is at a lower elevation such that the proposed second-story north facing windows do not directly overlook the appellant's windows, the applicant removed the balcony from the design and reduced the size of the north facing windows by two thirds of the size originally proposed (Exhibit 4). Further, the applicant has integrated landscaping to

screen windows along the sides and back of the proposed residence to minimize adverse impacts to residential privacy on neighboring properties. Therefore, the applicant has made design revisions to the proposed project to address and effectively minimize the issue of residential privacy. The approved project, as conditioned by the County, is consistent with the private view goal and guidelines of the LCP. For the reasons discussed above, the private view grounds raised by the appellant relative to the project's conformity to the policies contained in the certified LCP raise no substantial issue.

2. **Public Views**

The appellant asserts 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 Program related to the protection of public views of the mountains and public recreation along Channel Drive and on the beach directly seaward of Channel Drive. The appellant asserts that the project is inconsistent with Montecito Community Plan Goal LU-M-1, and Montecito Community Plan Policies PRT-M-1.6, LU-M-2.1, VIS-M-1, VIS-M-1.3, and Coastal Act Section 30251.

Article II of Section 2.2.4 of the Coastal Zoning Ordinance states:

The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

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.

Montecito Community Plan Policy PRT-M-1.6 states:

New development shall not adversely impact existing recreational facilities and uses.

Montecito Community Plan Policy LU-M-2.1 states:

In order to maintain the naturalized landscape currently characteristic of Montecito's residential roadways, standards shall be included in the Montecito Architectural and Development Guidelines which require that new structures and on-site parking areas in residential areas be screened from view from adjacent public roadways to the maximum extent feasible by careful site planning and landscaping.

Montecito Community Plan Policy VIS-M-1 states:

Development shall be subordinate to the natural open space characteristics of the mountains.

Montecito Community Plan Policy VIS-M-1.3 states:

Development of property should minimize impacts to open space views as seen from public roads and viewpoints.

Coastal Act Section 30251 states, in relevant part:

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.

As discussed in Section C(1)(a) and enumerated in Goal LU-M-1, Policy LU-M-2.1, Policy VIS-M-1, and Policy VIS-M-1.3 directly above, the Montecito Community Plan provides for the protection of public views when siting and designing new development. In addition, Coastal Act Section 30251, incorporated into the LCP as a guiding principle for its interpretation by Policy 1-1 of the County's Land Use Plan, requires the protection of public views when siting and designing new development. The appellant contends that the County of Santa Barbara failed to require adequate protection of public views in its authorization of the subject development.

Throughout the design review process, the County's MBAR evaluated the proposed project for potential impacts to public views of the mountains from Channel Drive and views of the beach across Channel Drive from the proposed project site. During this period, multiple design revisions were made to the proposed project to address concerns for the potential visual impacts of the second story of the new residence on public views of the mountains from Channel Drive. The proposed project does not significantly obstruct public views from any public road or from a public recreation area to, or along the coast. The project site is located on the mountain side of Channel Drive, and therefore the proposed residence will not obstruct views to or along the coast from Channel Drive or any other public road or viewing area. The proposed residence also does not block any public views of the mountains from the beach.

The applicant created photo-simulations based upon story poles (poles connected by tape or mesh placed on the site based on the to-scale architectural plans and used to depict the silhouette of the proposed development) to analyze the impact of the proposed residence, including the second story, on public views of the mountains from Channel Drive. The story poles were erected to depict the massing, roof and ridge lines associated with the proposed development. The story poles on which the photo-simulations were based were inspected for accuracy by a licensed land surveyor and this accuracy was independently confirmed by County staff. Although the proposed second story will partially block 40 feet, six inches of mountain views from Channel Drive, the Board of Supervisors found the visual impacts demonstrated by the photo-simulations to be less than significant. Additionally, very tall existing mature landscaping on the property directly behind the subject project site and on the appellant's property currently blocks views of the mountains from Channel Drive (Exhibit 5). Despite existing second-stories along Channel Drive and an abundance of very tall landscaping, there exist many public views of the mountains from Channel Drive.

At its December 15, 2014 hearing, the MBAR determined that the design concerns regarding potential public visual impacts had been adequately addressed and that the MBAR's suggestions had been effectively integrated into the project. The hearing minutes for the December 15, 2014 MBAR hearing state that the "applicant has been responsive to MBAR [and] neighbors [of the proposed project]", and further, that the project "does not block view[s] from the beach at all" and "public views [are] mostly protected knowing there is existing vegetation." The hearing minutes indicate that the MBAR felt that they had been "listened to" and that the "applicant has addressed concerns and changed [the] design 5 times to accommodate concerns."

In conformance with Montecito Community Plan Policy LU-M-2.1, listed above, the approved development has been designed using a natural color palette and has integrated landscaping to screen and soften the north and south facing elevations of the main residence (Exhibit 3).

The appellant further contends that the proposed second story's blockage of public views to the mountains from Channel Drive will have a significant impact on public recreation along Channel Drive in violation of Montecito Community Plan Policy PRT-M-1.6. As listed above, Policy PRT-M-1.6 proscribes new development from having an adverse impact on existing recreational facilities and uses. However, there are no existing recreational facilities located along the subject portion of Channel Drive, and the proposed development will have no impact on public recreational use of Channel Drive.

The appellant also contends that the approved project will not conform to Montecito Community Plan Policy LU-M-2.1 which requires new structures and on-site parking areas to be screened from public views. To address this requirement, the County has required the applicant design a landscaping plan that includes vegetation and other landscaping elements to screen the new residential and accessory structures, including the proposed three-car garage, from public views. The landscaping plan will receive further review and approval from the MBAR before issuance of the coastal development permit for the project.

Based on its review of the plans, story poles, and photo simulations of the proposed development, the County found that the approved development would not significantly obstruct public views, consistent with the requirements of the LCP. Commission staff has reviewed the record for the subject project and visited Channel Drive and the beach in the vicinity of the project site and confirmed these facts in the field. The approved development is sited and designed to protect public views from Channel Drive and the beach. The second story of the new residence will only partially obstruct views of the mountains from Channel Drive and there remain many views of the mountains along Channel Drive for the public to experience during recreational use of Channel Drive. The applicant has addressed concerns and effectively minimized adverse visual impacts of the development on public views. The approved project, as conditioned by the County, is consistent with the public view goals, policies, and provisions of the LCP. For the reasons discussed above, no substantial issue exists with respect to the public view grounds raised by the appellant relative to the project's conformity to the policies contained in the certified LCP.

3. **Development Size, Bulk and Scale/Neighborhood Compatibility**

The appellant asserts 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 Program related to the size, bulk and scale of the proposed development. The appellant asserts that the project is inconsistent with Land Use Plan Policy 4-4, Montecito Community Plan Goal LU-M-1 and LU-M-2, and Article II of Section 35-71.1 of the Coastal Zoning Ordinance.

Land Use Plan Policy 4-4 states:

In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.

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.

Montecito Community Plan Goal LU-M-2 states:

Preserve roads as important aesthetic elements that help to define the semi-rural character of the community. Strive to ensure that all development along roads is designed in a manner that does not impinge upon the character of the roadway.

Article II of Section 35-71.1 of the Coastal Zoning Ordinance states, in relevant part:

It is the intent of this district [E-1 zoning] to protect the residential characteristics of an area and to promote a suitable environment for family life.

The County's LCP and the Montecito Community Plan contain policies and provisions, as excerpted above, that seek to protect neighborhood compatibility. These goals, policies and provisions are interpreted to require new residential development to be consistent with the character, size, bulk, and scale of existing surrounding residential development. The Montecito Architectural Guidelines and Development Standards provide maximum floor area ratios to be used as guidelines for sizing development in proportion to lot size. The appellants contend that the development, as approved, is inconsistent with the character, size, bulk and scale of other residential development along Channel Drive and in the immediate neighborhood of the project site.

As discussed previously, the MBAR performed a design review of the proposed development on six separate occasions. At the hearing on December 15, 2014, the MBAR took a straw vote and determined that the project, as designed, was compatible with the neighborhood. The final

iteration of the design for the proposed main residence reduces the overall size and height of the new residence, and accordingly, the MBAR determined at the October 12, 2015 hearing that the proposed new main residential structure has a proper relationship with the size, bulk and scale of the surrounding neighborhood and the size of the subject lot. The majority of residences within this neighborhood can be characterized as large homes on small lots. The existing two-story residence on the subject parcel is 3,802 square feet in total size (first floor: 3,136 sq. ft.; second floor: 666 sq. ft.) and is approximately 31% over the maximum recommended floor area for the 0.44-acre lot. The proposed, new two-story residence will be 3,187 square feet (first floor: 1,935 sq. ft.; second floor: 1,252 sq. ft.) and will be 615 square feet smaller than the existing residence and approximately 9.9% over the maximum recommended floor area for the lot. Existing floor areas of the residences on surrounding parcels, including those parcels located along Channel Drive, exceed the maximum recommended floor area by a range of 1% to 48%. The proposed residence, which would be 9.9% over the maximum floor area for the lot, is within this range and on the lower end of the range. The footprint of the proposed new first floor of the main residence will have a footprint that is smaller than the existing residence by 1,201 square feet. Although the proposed new main residence will still be a larger home on a smaller lot, it will be compatible with the surrounding residential development which also consists of larger homes on smaller lots.

The proposed height of the new main residential structure (22 feet, 4 inches), as discussed more fully in Section III(C)(1)(a) above, conforms to the maximum 25 foot height restriction allowed by the Coastal Zoning Ordinance. Further, six of the eleven residential main structures along Channel Drive have either a second story or a second story element. As such, the proposed design, which includes a second story, is also compatible with the surrounding neighborhood.

The appellant also contends that the approved development is not compatible with the architectural style of the surrounding neighborhood. However, architectural styles in this neighborhood within Montecito vary greatly. In fact, the residence directly adjacent and to the west of the subject project site is white in color with a very modern design. As discussed previously, the applicant has submitted the proposed project to the MBAR for design review on six separate occasions. The project was redesigned multiple times to reach a final design that the County determined would be compatible with the surrounding neighborhood. The applicant's proposed project includes a neutral color palette, landscaping to screen and soften the southern elevation of the main residential structure, and has been reduced in size, bulk, and scale to address and effectively minimize the concerns of neighborhood compatibility held by the MBAR and neighbors of the project. In addition to the significant amount of design review that has already been performed for the proposed project, the County's approval of the project is conditioned to require further MBAR approval for project design elements, including but not limited to design, scale, character, colors, materials, and landscaping prior to issuance of the coastal development permit for the project. The approved project, as conditioned by the County, complies with the size requirements of the County's LCP (including the Montecito Community Plan), the subject property is zoned to allow two-story residential structures, and the scale of the proposed main residence is consistent with existing neighborhood development. For the reasons discussed above, no substantial issue exists with respect to the neighborhood compatibility, character, size, bulk, and scale grounds raised by the appellant relative to the project's conformity to the policies contained in the certified LCP.

4. Minimizing Cut and Fill and the Potential Adverse Air Quality and Traffic Impacts Created by Grading Activities and the Export of Soil

The appellant asserts 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 Program related to the minimization of cut and fill and the potential for adverse air quality and traffic impacts created by grading activities and the export of soil from the project site. Specifically, the appellant asserts that the project is inconsistent with Land Use Plan Policy 3-13, Montecito Community Policy AQ-M-1.3, and Coastal Act Section 30253(d).

Land Use Plan Policy 3-13 states:

Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.

Montecito Community Plan Policy AQ-M-1.3 states:

Air pollution emissions from new development and associated construction activities shall be minimized to the maximum extent feasible. These activities shall be consistent with the Air Quality Attainment Plan and Air Pollution Control District guidelines.

Coastal Act Section 30253(d) states, in relevant part:

New development shall do all of the following:...Minimize energy consumption and vehicle miles traveled.

The County's LCP, including the Montecito Community Plan, and the Coastal Act contain policies and provisions, as excerpted above, that require new development to minimize cut and fill operations, protect air quality from construction related impacts, and minimize energy consumption and vehicle miles traveled. The appellant contends that the development, as approved, authorizes too large a quantity of cut and fill and will create adverse air quality impacts and traffic impacts from the export of this soil.

The appellant also alleges that the grading quantities and the amount of cut required to complete the approved project is significantly underestimated and misrepresented by the applicant. The footprint of the proposed project is located on a relatively level building site. As such, the proposed project requires only 60 cubic yards of site grading. Further, the existing swimming pool will be replaced with a new swimming pool, but the location of the pool will not change. Therefore, only a small amount of cut is needed to construct the new swimming pool. The majority of the proposed cut, namely 500 cubic yards of excavation and export, will be removed to excavate and construct the new 881 square foot basement. In conformity with Land Use Plan Policy 3-13, cited above, the applicant has reduced the size of the basement from an originally

proposed 1,400 square foot basement to the approved 881 square feet basement to minimize cut and fill operations during the construction of the new residence.

The County's Air Pollution Control District has conditioned the subject Coastal Development Permit to require standard air pollution dust control conditions (Exhibit 7) to minimize the construction related air quality impacts during grading activities and the cut and export of soil from the project site. Additionally, the relatively small quantity of soil export (500 cubic yards of cut) does not raise a substantial issue with regard to conformity with Coastal Act Section 30253(d) and its directive to minimize energy consumption and vehicle miles traveled, as the project will not require an excessive amount of trips to remove the soil to an offsite location. Therefore, the County has addressed the above referenced issues concerning cut and fill operations and has legally and factually supported their findings that the project is consistent with all relevant policies of the LCP. For the reasons discussed above, no substantial issue exists with respect to the grading, air pollution and vehicle miles traveled grounds raised by the appellant relative to the project's conformity to the policies contained in the certified LCP

5. Daytime Window Glare, Night Lighting and General LCP Conformity Provisions

The appellant asserts 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 Program related to the night lighting of structures. Specifically, the appellant asserts that the project is inconsistent with Montecito Community Policy LU-M-2.2.

Montecito Community Plan Policy LU-M-2.2 states:

Lighting of structures, roads and properties shall be minimized to protect privacy, and to maintain the semi-rural, residential character of the community.

The appellant also asserts that the quantity of windows on the proposed new main residential structure will create too much glare during daylight hours; however, the appellant has not cited applicable LCP policies related to this issue. The LCP does not contain any policies or provisions that require a minimization of windows in the design of residential structures within the zoning designation of the subject project site. The new proposed main residential structure will contain 23% less south-facing glass than the existing residence on the project site. Additionally, the applicant has reduced the size of proposed windows for the new residence to address privacy concerns of neighbors during the multiple design reviews of the subject project (Exhibit 4). The reduction in the amount of south-facing windows from the existing residence to the new, proposed residence and the overall reduction in the sizing of the proposed, new windows have been verified by County staff.

The appellant contends that the interior and exterior lighting of the residential main structure will create a lantern effect and thus have an adverse lighting impact through both spill-over onto adjacent lots and public views of the new residence at night from Channel Drive. The cited Montecito Community Plan Policy LU-M-2.2 is intended to regulate *exterior* lighting of structures, roads and properties. This policy has not been interpreted to regulate the lighting of interior private spaces. As discussed in Section III(A) above, the County's approval of the

project was conditioned to require the MBAR's approval of an exterior lighting plan prior to issuance of the subject coastal development permit. The condition specifies that this plan must adhere to the following parameters—all exterior night lighting of the project site shall be low intensity, low glare and installed at a minimum height and hooded to direct light downward onto the subject lot and prevent spill-over onto adjacent lots; and, all lighting shall be required to be dimmed after 10:00 p.m. Therefore, the Commission finds that the County addressed the above referenced issues concerning lighting impacts and daylight glare and has supported the findings that the project is consistent with all relevant policies of the LCP. Accordingly, there is no substantial issue regarding conformity with these policies.

Additionally, the appellant generally asserts that the findings adopted by the County in its approval of the project are not supported by adequate evidence. Specifically, the appellant cites general requirements by the Coastal Zoning Ordinance for findings of project approval, and Land Use Plan Policy 1-4.

LUP Policy 1-4 states:

Prior to the issuance of a coastal development permit, the County shall make the finding that the development reasonably meets the standards set forth in all applicable land use plan policies.

As discussed in detail above, the Commission finds that the County's findings for approval of the subject development are legally and factually supported by the record and raise no substantial issue with respect to the grounds on which the appeal was filed.

6. CEQA

The appellant also alleges that the County failed to comply with CEQA. However, the appellant's contention about the adequacy of the County's CEQA review does not allege an inconsistency of the project as approved with the certified LCP. Rather, the appellant alleges that the County's exemption determination was legally incorrect and violates CEQA. This concern is not a valid ground for appeal, as it does not relate to conformity of the project as approved with the certified LCP or the public access policies of the Coastal Act. The Commission therefore finds that this contention is not a valid ground for appeal pursuant to Section 30603(b)(1) of the Coastal Act.

7. Substantial Issue Factors Considered by Commission

An analysis of the following five factors demonstrates that the appeal raises no substantial issue with respect to the grounds on which the appeal was filed.

In this case, based on the analysis above, the County has provided the factual and legal support for the decision that the proposed development is consistent with the relevant goals, guidelines, policies and provisions of the certified LCP.

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

the demolition and redevelopment of a single family residence on a 0.44-acre parcel in a developed residential area of Montecito. The approved residence is similar in size to the existing residence. 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 project is relatively minor.

The third factor in the evaluation of 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 is developed with a single-family residence and is located in a residentially zoned area. There is no environmentally sensitive habitat area on the parcel or immediately adjacent to the parcel. The approved residential redevelopment will be compatible with the character of this residential neighborhood, and would not result in significant adverse impacts to public views of the mountains from Channel Drive. 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 not be an adverse precedent 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 the demolition and construction of a single-family residence is consistent with the policies and provisions of the LCP, which 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 view impacts, sizing of the development and compatibility with the neighborhood, lighting and glare impacts, cut and fill quantities and air quality and traffic impacts from the export of cut, and location of accessory structures. The Commission further finds that, based on the administrative record, the County had sufficient legal and factual support for its decision. Additionally, the Commission finds 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. Therefore, the Commission finds that the assertions of the appeal do not raise a substantial issue.

APPENDIX 1

Substantive File Documents

Certified Santa Barbara County Local Coastal Plan; Certified Montecito Community Plan; Montecito Architectural Guidelines and Development Standards, Santa Barbara County Board of Supervisors Findings and Conditions dated August 1, 2016 (Local Permit No. 14CDH-00000-00014); Staff Report prepared for the May 20, 2015 Montecito Planning Commission hearing dated April 30, 2015.



Project Site

Exhibit 1
Vicinity Map
Appeal No. A-4-STB-16-0076

Project Site



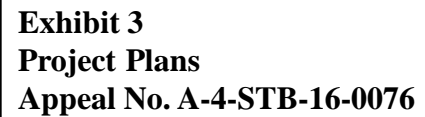
Channel Dr

Channel Dr

Exhibit 2
Aerial View of Project Site
Appeal No. A-4-STB-16-0076

1154 Channel Drive
Santa Barbara, CA 93108

Montecito Planning Commission Submittal 03-23-2016



L1.0

Grabowski-Olsten Residence
1154 Channel Drive
Santa Barbara, CA 93108
Montecito Planning Commission Submittal 03-23-2016

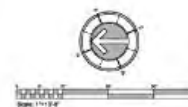
Montecito Planning Commission Submittal 03-23-2016

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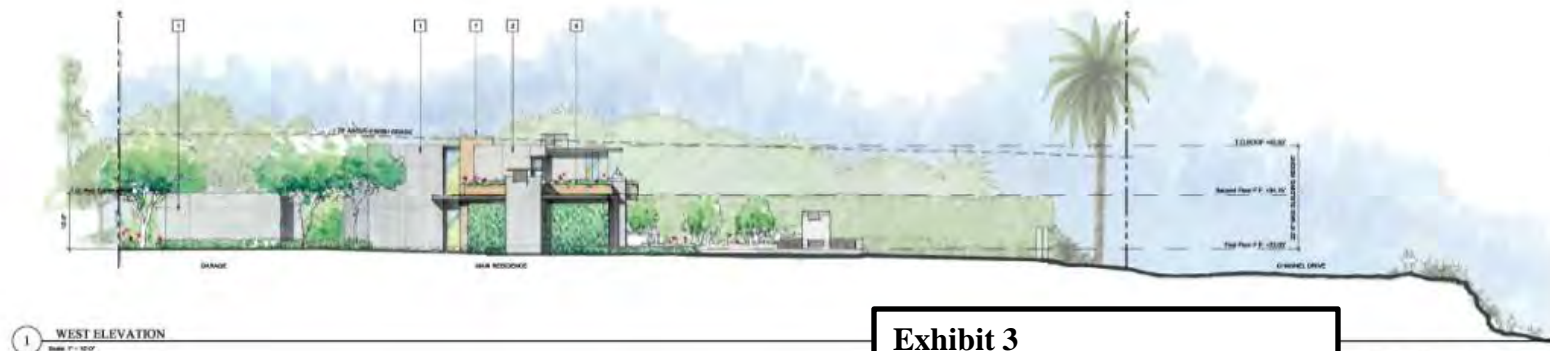
Exhibit 3
Project Plans
Appeal No. A-4-STB-16-0076



THE USE OF "VEGETATION" AND "LANDSCAPE" IS INTENDED TO BE A GUIDE. ANY VEGETATION NOT SHOWN HEREIN, AND ANY VEGETATION NOT SHOWN IN THE "KEY PLAN", IS TO BE DETERMINED BY THE LANDSCAPE ARCHITECT. ANY VEGETATION NOT SHOWN HEREIN, AND ANY VEGETATION NOT SHOWN IN THE "KEY PLAN", IS TO BE DETERMINED BY THE LANDSCAPE ARCHITECT.



Key Notes	
1	Exterior Wall Finish (Concrete)
2	Exterior Wall Finish (Stucco)
3	Exterior Wall Finish (Brick)
4	Exterior Wall Finish (Stone)
5	Exterior Wall Finish (Wood Siding)
6	Exterior Wall Finish (Metal Siding)
7	Exterior Wall Finish (Glass)
8	Exterior Wall Finish (Other)



Warner Group
ARCHITECTS, INC.
1200 J Coast Village Road
Santa Barbara, CA 93108
Telephone: (805) 966-8877
Fax: (805) 966-8777
Website: www.warnergrp.com

Grabowski-Olsten Residence
1154 Channel Drive
Santa Barbara, CA 93108
Montecito Planning Commission Submittal 03-23-2016

Building Elevations	
Project No.	03-23-2016
Scale	1" = 10'-0"
Date	Feb. 22, 2016
Sheet No.	A4.0

Exhibit 3
Project Plans
Appeal No. A-4-STB-16-0076



**Comparison of south facing
elevations showing applicant
reduced the size of the windows
and removed the balcony
feature of the design**



**Exhibit 4
Comparison of South-Facing Elevations
Appeal No. A-4-STB-16-0076**



Exhibit 5
Photograph of Existing Residence
Appeal No. A-4-STB-16-0076



4-51016-0112
County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

NOTICE OF FINAL ACTION

August 4, 2016

California Coastal Commission
Steve Hudson, District Manager
89 South California Street, Suite 200
Ventura, California 93001

**Appeal period
begins*

*August 9, 2016 **

Received

AUG 08 2016

California Coastal Commission
South Central Coast District

Dear Mr. Hudson,

On July 19, 2016 Santa Barbara County took final action on the development described below:

☒ Appealable Coastal Development Permit [14CDH-00000-00014]

Project Applicant:

Warner Group Architects, Inc.
1250 Coast Village Road #J
Santa Barbara, CA 93108
(805) 969-5074

Property Owner:

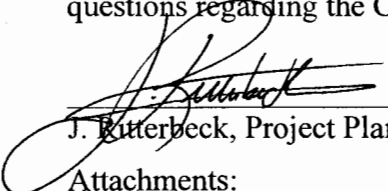
Olsten Montecito Trust
6520 Meetinghouse Road
New Hope, PA 18938
(215) 579-6005

Project Description: The project is for a Coastal Development Permit allowing demolition of an existing 3,802 square foot two-story residence and 520 square foot attached garage, and construction of a new 3,187 square foot, two-story single-family dwelling with the first floor being approximately 1,935 square feet, the second floor being approximately 1,252 square feet, and with an 881 square foot basement, a new detached garage of approximately 680 square feet, and a new detached pool cabana of approximately 570 square feet.

Location: The project involves AP No. 009-352-019, a 0.44-acre parcel zoned 1-E-1, located at 1154 Channel Drive in the Montecito Community area of Santa Barbara County, First Supervisorial District., Santa Barbara County, California.

The receipt of this letter and the attached materials start the 10 working day Coastal Commission appeal period during which the County's final action on this Coastal Development Permit may be appealed to the Coastal Commission. Appeals must be in writing and must be submitted to the appropriate Coastal Commission district office on the appropriate form and with the required filing fee. See the following for further information: <http://www.coastal.ca.gov/cdp/cdp-forms.html>

Please contact J. Ritterbeck at (805) 568-3509 or jritterb@co.santa-barbara.ca.us if you have any questions regarding the County's action or this notice.


J. Ritterbeck, Project Planner

Attachments:

Action Letter dated August 1, 2016

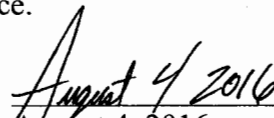

August 4, 2016

Exhibit 6

Final Local Action Notice

Appeal No. A-4-STB-16-0076

xc: 14CDH-00000-00014, 16APL-00000-00007

Applicant: Derek Westen, 1800 Jelinda Drive, Santa Barbara, CA 93108

Opposition: Susan Petrovich, 1020 State Street, Santa Barbara, CA 93101

Warner Group Architects, Inc., 1250 Coast Village Road, #J, Santa Barbara, CA 93108

Olsten Montecito Trust, 6520 Meetinghouse Road, New Hope, PA 18938

Hearing Support



County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

August 1, 2016

Olsten Montecito Trust
6520 Meetinghouse Road
New Hope, PA 18938

BOARD OF SUPERVISORS
HEARING OF JULY 19, 2016

Warner Group Architects, Inc.
1250 Coast Village Road, #J
Santa Barbara, CA 93108

Hearing on the request of the Olsten Montecito Trust, property owner, to consider Case No. 16APL-00000-00007 [application filed on March 30, 2016] to appeal the Montecito Planning Commission's denial of Case No. 14CDH-00000-00014 for a Coastal Development Permit in compliance with Section 35-182 of the Article II Coastal Zoning Ordinance, on property zoned 1-E-1. The application involves AP No. 009-352-019, a 0.44-acre parcel zoned 1-E-1, located at 1154 Channel Drive in the Montecito Community area of Santa Barbara County, First Supervisorial District.

Dear Appellants:

At the Board of Supervisors hearing of July 19, 2016, Supervisor Farr moved, seconded by Supervisor Lavagnino and carried by a vote of 3 to 1 (Supervisor Wolf – No, Supervisor Carbajal – Recused) to:

- a) Approve the appeal, Case No. 16APL-00000-00007;
- b) Make the required findings for approval of the project, including CEQA findings, included in Exhibit 1 presented at the hearing and attached;
- c) Determine that approval of the project is exempt from CEQA pursuant to CEQA Sections 15301 and 15303 of the State Guidelines for the Implementation of the California Environmental Quality Act, as specified in Exhibit 2 provided at the hearing;
- d) Approve the project *de novo*, case number 14CDH-00000-00014, subject to the conditions of approval in as Exhibit 3, provided at the hearing and attached; and
- e) Waive the Notice of Exemption 6-day posting requirement for good cause pursuant to County CEQA Guidelines Section V.D.2.

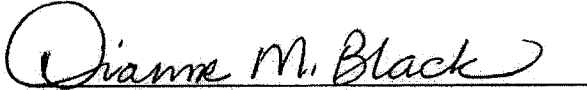
123 E. Anapamu Street, Santa Barbara, CA 93101 • Phone: (805) 568-2000 • FAX: (805) 568-2020

624 W. Foster Road, Santa Maria, CA 93455 • Phone: (805) 934-6250 • FAX: (805) 934-6258

www.sbcountyplanning.org

The action of the Board of Supervisors may be appealed to the Coastal Commission within ten (10) working days of receipt by the Coastal Commission of the County's notice of final action.

Sincerely,



DIANNE M. BLACK
ASSISTANT DIRECTOR

cc: Case Files: 16APL-00000-00007, 14CDH-00000-00014
Clerk of the Board
Applicant: Derek Westen, 1800 Jelinda Drive, Santa Barbara, CA 93108
Opposition: Susan Petrovich, 1020 State Street, Santa Barbara, CA 93101
Montecito Fire Protection District
Public Works, Roads Division
Supervisor Carbajal, First District
Michael Cooney, Vice-Chair, 1st District Commissioner
Rachel Van Mullem, Chief Assistant County Counsel

Attachments

- A. Findings for Approval (Exhibit 1)**
- B. Conditions of Approval (Exhibit 3)**
- C. Board of Supervisors Minute Order, dated July 19, 2016**

DB:dmv

EXHIBIT 1

FINDINGS FOR APPROVAL

1.0 CEQA FINDINGS

The Board of Supervisors finds that the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15301 [Existing Facilities] and 15303 [New Construction or Conversion of Small Structures]. Please see the Notice of Exemption, included as Attachment 3 to the Montecito Planning Commission staff memo, dated March 3, 2016.

2.0 ADMINISTRATIVE FINDINGS

2.1 FINDINGS REQUIRED FOR ALL COASTAL DEVELOPMENT PERMITS

In compliance with Section 35-60.5 of the Article II Zoning Ordinance, prior to issuance of a Coastal Development Permit, the County shall make the finding, 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.

As discussed in Section 6.2 of the Montecito Planning Commission staff report, dated April 30, 2015, incorporated herein by reference, the Montecito Water District has issued a Certificate of Water Service Availability and the Montecito Sanitary District has issued a Sewer Service Availability Letter for the proposed new SFD on the subject parcel (Attachments E & F to the April 30, 2015 Montecito Planning Commission staff report). Access to the project site will continue to be provided via the existing driveway off of Channel Drive. Driveway dimensions and access will be in conformance with Montecito Fire Protection District specifications. Therefore, this finding can be made.

2.2 ARTICLE II COASTAL ZONING ORDINANCE FINDINGS

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:

- 1) To the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan;
- 2) With the applicable provisions of this Article and/or the project falls within the limited exception allowed under Section 35-161.

As revised, the project remains consistent with all applicable ordinances and policies as discussed in Sections 6.2 and 6.3 of the original Montecito Planning Commission staff report, dated April 30, 2015. The revisions that have been made to the project only serve

to further enhance the project's compatibility with surrounding development. Therefore, the revised project continues to comply with all applicable policies of the Comprehensive Plan, including the Montecito Community Plan and Coastal Land Use Plan, as well as applicable provisions of the Article II Coastal Zoning Ordinance. This includes compliance with policies protecting the night-time character of the community, as the project has been designed with lighting controls to ensure exterior lighting is shielded and directed downwards to prevent glare and spillover onto adjacent properties. This is confirmed by the applicants' visual simulation included in the PowerPoint presentation to the Board of Supervisors dated July 19, 2016, which depicts the night-time lighting of existing vs. proposed development. The parcel's legal nonconforming status as to size does not preclude the project and will remain the case following project approval. Therefore, this finding can be made.

2.2.2 The proposed development is located on a legally created lot.

The proposed development is located on a legal lot of record that is shown as lot 19 of the 1887 Recorded Map (Rack 1, Map 3), known as the Tract Map of the Montecito Land Company, as depicted on Assessor's Map Book 009, page 35, County of Santa Barbara. 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 non-conforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).

As discussed in Section 6.3 of the Montecito Planning Commission staff report, dated April 30, 2015 and incorporated herein by reference, there are no zoning or building violations recorded against the subject parcel. Additionally, as conditioned, the subject property and proposed project are in full compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and all other applicable provisions of Article II, Coastal Zoning Ordinance for the E-1 zone district. The parcel's legal nonconforming status as to size does not preclude the project and will remain the case following project approval. 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 does not significantly obstruct public views from any public road or from a public recreation area to, or along the coast. The residence is on the mountain side of Channel Drive and does not obstruct views to or along the coast from Channel Drive or any other public road or viewing area. Additionally, although this finding relates to significant obstruction of public views to and along the coast, as noted in the Approved Minutes from the Montecito Board of Architectural Review's December 15, 2014 and October 12, 2015 hearings, the project does not block any views from the beach and retains public views of the mountains as viewed from Channel Drive (see Attachment

D to the Montecito Planning Commission staff report, dated April 30, 2015 and Attachment 6 to the Montecito Planning Commission staff memo, dated March 3, 2016, respectively, both incorporated herein by reference). This is supported by evidence including the photo-simulations included in the applicants' PowerPoint presentation to the Board of Supervisors dated July 19, 2016 and incorporated herein by reference. These simulations, which the Board of Supervisors finds to be more accurate, credible, and persuasive than those of the opponents, demonstrate that the second story element would not appreciably block public views of the mountains as seen from Channel Drive. The story poles upon which the photo-simulations were created were validated by a licensed land surveyor as being accurate. Therefore, this finding can be made.

2.2.5 The development is compatible with the established physical scale of the area.

As shown in Attachment D to the Montecito Planning Commission staff report, dated April 30, 2015, incorporated herein by reference, the MBAR reviewed the originally proposed development at the conceptual level on six separate occasions. At the hearing of December 15, 2014, the MBAR took a straw vote and determined that the project, as previously designed, was compatible with the neighborhood and would fit in nicely with the surrounding community. The revised project, which reduces the overall size and height of the proposed new dwelling, was reviewed by the MBAR on October 12, 2015, where it was determined to be in proper relationship with the size, bulk and scale of the surrounding neighborhood and appropriate to the size of the lot (see Attachment 4 to the Montecito Planning Commission staff memo, dated March 3, 2016 and incorporated herein by reference and the applicants' PowerPoint presentation to the Board of Supervisors dated July 19, 2016 and incorporated herein by reference). As to the size, bulk, and scale, the Board of Supervisors finds the applicants' presentation of photo-simulations to be more accurate, credible, and persuasive than those of the opponents. Additionally, as a condition of approval, the project will require final review and approval by the MBAR prior to issuance of the Coastal Development Permit (see Condition #3, Attachment 2 to the Montecito Planning Commission staff memo, dated March 3, 2016 and incorporated herein by reference).

Additionally, as discussed in Section 6.2 of the Montecito Planning Commission staff report, dated April 30, 2015 and incorporated herein by reference, large homes on small lots make up the majority of dwellings throughout the immediate neighborhood. The existing two-story dwelling on the subject parcel is 3,802 square feet in total size (first floor: 3,136 sq. ft; second floor: 666 sq. ft.) and is approximately 31% over the maximum recommended floor area for the 0.44-acre lot. The revised new two-story dwelling currently will be 3,187 square feet in total size (first floor: 1,935 sq. ft; second floor: 1,252 sq. ft.) and will be approximately 9.9% over the maximum recommended floor area for the lot. Existing floor areas of some of the homes on surrounding parcels located on the same block as the subject parcel also exceed the maximum recommended floor area, ranging from 1% over to as much as 48% over. As such, the 9.9% overage falls within this range and is smaller than the existing dwelling on the lot. Therefore, 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 does not impact public access to the beach along this area of the coast as the project site is not immediately adjacent to any public access points to the ocean and will not impede lateral access along the beach. Therefore, this finding can be made.

2.3 ADDITIONAL FINDINGS REQUIRED FOR SITES WITHIN THE MONTECITO COMMUNITY PLAN AREA

2.3.1 In compliance with Section 35-215 of the Article II Zoning Ordinance, prior to 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 all development projects as development as defined in the Coastal Land Use Plan that the project meets all the applicable development standards included in the Montecito Community Plan of the Coastal Land Use Plan.

As discussed in Sections 6.2 and 6.3 of the Montecito Planning Commission staff report, dated April 30, 2015 and incorporated herein by reference, as proposed and conditioned, the project is in full compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and all other applicable development standards of Article II, Coastal Zoning Ordinance for the E-1 zone district and all applicable standards of the Comprehensive Plan, including the Montecito Community Plan and the Coastal Land Use Plan. The parcel's legal nonconforming status as to size does not preclude the project and will remain the case following project approval. Therefore, this finding can be made.

2.3.2 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 does not impact public access to the beach along this area of the coast as the project site is not immediately adjacent to any public access points to the ocean and will not impede lateral access along the beach. Therefore, this finding can be made.

EXHIBIT 2

**ENVIRONMENTAL DOCUMENT
NOTICE OF EXEMPTION**

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: J. Ritterbeck, Planning & Development

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

APN: 009-352-019

Case Nos.: 14CDH-00000-00014

Location: 1154 Channel Drive, Montecito, CA 93108

Project Title: Olsten Trust Single-family Dwelling Demo-Rebuild, New Garage, Cabaña & Pool

Project Description: The project is for a Coastal Development Permit to allow demolition of the existing 3,802 square foot two-story residence and 520 square foot attached garage, and construction of a new 3,187 square foot, two story single family dwelling with the first floor being approximately 1,935 square feet, the second floor being approximately 1,252 square feet, and with an 881 square foot basement, a new detached garage of approximately 680 square feet, and a new detached pool cabaña of approximately 570 square feet. The project would require approximately 500 cubic yards of cut, 100 cubic yards of fill, and 400 cubic yards of export. The parcel will continue to be served by the Montecito Water District, the Montecito Fire Department, and Montecito Sanitary District. Access to the site will continue to be provided off of Channel Drive. The project is a 0.44-acre parcel zoned I-E-1 and shown as Assessor's Parcel Number 009-352-019, located at 1154 Channel Drive in the Montecito Community Plan area, First Supervisorial District, Santa Barbara County, California.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Olsten Montecito Trust, Property Owner

Exempt Status:

- ☐ Ministerial
- ☐ Statutory Exemption
- ☒ Categorical Exemption(s)
- ☐ Emergency Project
- ☐ Declared Emergency

Cite specific CEQA and/or CEQA Guideline Sections: The project can be found exempt from environmental review based upon Sections 15301 [Existing Facilities] and 15303 [New Construction or Conversion of Small Structures] of the California Environmental Quality Act (CEQA) Guidelines.

Reasons to support exemption findings:

The project can be found exempt from environmental review based upon Section 15301 [Existing Facilities] and Section 15303 [New Construction or Conversion of Small Structures] of the California Environmental Quality Act (CEQA) Guidelines.

Section 15301(*l*) exempts the demolition and removal of individual small structures. Specifically, subsection (*l.1*) exempts the demolition of one single-family dwelling, and subsection (*l.4*) exempts the demolition of accessory structures including: garages, carport, patios, swimming pools and fences. The current project proposes demolition of an existing 3,802 square foot two-story residence and 520 square foot attached garage, as well as the existing in-ground swimming pool and would therefore fall within the scope of this exemption.

Section 15303(*a&e*) exempts the construction and location of limited numbers of new, small facilities or structures. Specifically, subsection (*a*) exempts the construction of one single-family residence, and subsection (*e*) exempts the construction of accessory (appurtenant) structures including but not limited to: garages, carports, patios, swimming pools and fences. The current project proposes the construction of a new 3,187 square foot, two-story single-family dwelling with an 881 square foot basement, a new 680 square foot detached three-car garage, a new detached 570 square foot pool cabana, and a new swimming pool and would therefore fall within the scope of this exemption.

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

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

There are no designated or mapped environmental sensitive habitat (ESH), biological or cultural resources or other resources of hazardous or critical concern located in or within close proximity to the area of the proposed project. The nearest mapped ESH area (Monarch Butterfly roosting site) is approximately 750 feet west of the location of the proposed project and is separated from the project site by existing dwellings and roads. Impacts associated with the project would be insignificant as all proposed development would be located on already disturbed portions of the site and all exterior lighting would be conditioned to be low-wattage, hooded and directed downward in order to minimize any impacts off-site. Therefore, this exception to categorical exemption 15303 would not apply.

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

The proposed project is for the construction of a new 3,187 square foot, two-story single-family dwelling with an 881 square foot basement, a new 680 square foot detached three-car garage, a new detached 570 square foot pool cabana, and a new swimming pool on a legal lot of record. The proposed development meets all applicable criteria of the Article II Coastal Zoning Ordinance and the Comprehensive Plan, including the Coastal Land Use Plan. The proposed project would create no significant impacts to protected resources. Additional minor structural development of the same type in the same place, over time, that is developed in conformance with applicable ordinance and policy regulations on residentially-zoned parcels in the vicinity would not result in a cumulatively significant impact. Therefore, this exception to the categorical exemptions does not apply.

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

There are no designated or mapped sensitive biological, cultural, or other environmental resources or any other resources of hazardous or critical concern located in or within close proximity to the area of the proposed development. Additionally, all proposed development would be located on portions of the subject parcel that are already developed. Furthermore, the circumstances under which the proposed project is requested and under which construction is proposed are not unusual. The proposed project consists of typical residential development and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The nearest mapped ESH area (Monarch Butterfly roosting site) is approximately 750 feet west of the location of the proposed project and is separated by existing dwellings and roads. Therefore, this exception to the categorical exemptions would not apply.

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

The proposed project would not cause damage to any designated scenic resources and there is no development proposed within a highway officially designated as a state scenic highway. Therefore, this exception to the categorical exemptions is not applicable to the proposed project.

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

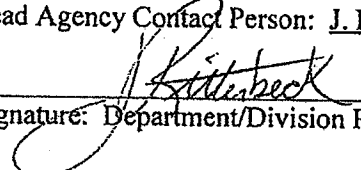
The proposed project is not located on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code. Therefore, this exception to the categorical exemptions does not apply.

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

The proposed development would have no impact on any historical resource. Therefore, this exception to the categorical exemptions does not apply.

Lead Agency Contact Person: J. Ritterbeck, Planner

Phone #: (805) 568-3509

Signature:  Department/Division Representative

8/1/16
Date

Acceptance Date: _____

Note: A copy of this form must be posted at P&D 6 days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.

Distribution: Hearing Support Staff
Project file (when P&D permit is required)
Date Filed by County Clerk: _____

EXHIBIT 3

COASTAL DEVELOPMENT PERMIT



COUNTY OF SANTA BARBARA

Planning and Development

www.sbcountyplanning.org

COASTAL DEVELOPMENT PERMIT NO.: 14CDH-00000-00014

Project Name: OLSTEN TRUST SFD DEMO-REBUILD, NEW GARAGE, CABANA & POOL
Project Address: 1154 CHANNEL DR, SANTA BARBARA, CA 93108
A.P.N.: 009-352-019
Zone: 1-E-1

The Board of Supervisors hereby approves this Coastal Development Permit for the project described below based upon compliance with the required findings for approval and subject to the attached terms and conditions.

APPROVAL DATE: 7/19/2016

APPEALS:

The approval of this Coastal Development Permit may be appealed to the California Coastal Commission by the applicant, owner, any aggrieved person, or two members of the Coastal Commission. An aggrieved person is defined as any person who, either in person or through a representative, appeared at a public hearing in connection with this decision or action being appealed, or who by other appropriate means prior to a hearing or decision, informed the decision-maker of the nature of their concerns, or who, for good cause, was unable to do either.

PROJECT DESCRIPTION SUMMARY: DEMOLITION OF EXISTING RESIDENCE & GARAGE; CONSTRUCTION OF NEW TWO STORY RESIDENCE; NEW DETACHED GARAGE; NEW CABANA; AND NEW POOL & LANDSCAPING. THE PROJECT WILL REQUIRE APPROX 500 CY OF GRADING. To receive additional information regarding this project and/or to view the application and/or plans, please contact J. Ritterbeck at 123 East Anapamu Street, Santa Barbara, by email (jritterb@co.santa-barbara.ca.us), or by phone ((805) 568-3509).

PROJECT SPECIFIC CONDITIONS: See Attachment A.

ASSOCIATED CASE NUMBERS: 16APL-00000-00007

PERMIT ISSUANCE: This Coastal Development Permit will be issued following the close of the appeal period, including the Coastal Commission appeal period, provided an appeal is not filed, or if appealed, the date of final action on the appeal which has the effect of upholding the approval of the permit. Issuance of this permit is subject to compliance with the following terms and conditions:

1. **Notice.** Notice of this project shall be posted on the project site by the applicant utilizing the language and form of the notice provided by the Planning and Development Department. The notice shall remain posted continuously until at least 10 calendar days following action on the permit, including an action on any appeal of this permit (Article II Section 35-181). The *Proof of Posting of Notice on Project Site* shall be signed and returned to the Planning and Development Department prior the issuance of the permit.
2. **Compliance with conditions.** All conditions that are required to be satisfied prior to issuance of the permit have been satisfied and the permit has been signed by the applicant or owner.
3. **Design Review.** If required, the project has been granted final approval by the appropriate Board of Architectural Review (BAR), and an appeal of that final approval has not been filed.
4. **Appeals.** An appeal of the approval of this permit, or an appeal of the final approval by the BAR, has not been filed with the County, and an appeal of the approval of this permit has not filed with the Coastal Commission within the 10 working days following the receipt of the County's Notice of Final Action on the project by the Coastal Commission. If an appeal has been filed then the permit shall not be issued until final action on the appeal(s) has occurred, including appeals filed with the Coastal Commission, which has the effect of upholding the approval of this permit, and, if applicable, the final approval by the BAR.

5. **Other approvals.** Any other necessary approvals required prior to issuance of this Coastal Development Permit have been granted.

PERMIT EXPIRATION AND EXTENSION: This permit shall remain valid only as long as compliance with all applicable requirements of the Article II Coastal Zoning Ordinance and the permit continues, including the conditions of approval specific to this permit. Additionally:

1. The approval of this permit shall expire either 12 months from the effective date of the permit or other period allowed in compliance with an approved Time Extension, and shall be considered void and of no further effect unless the permit is either issued within the applicable period in compliance with the terms indicated above or a valid application for a Time Extension is submitted prior to the expiration of this 12 month period and is subsequently approved (Article II Section 35-169).
2. This permit shall expire two years from the date of issuance and be considered void and of no further effect unless the use and/or structure for which the permit was issued has been lawfully established or commenced in compliance with the issued permit or an application for a Time Extension is submitted prior to the expiration of this two year period and is subsequently approved (Article II Section 35-169).
3. The effective date of this permit shall be (a) the day following the close of any applicable appeal period, including an appeal to the Coastal Commission, provided an appeal is not filed, or (b) if appealed, the date of final action on the appeal, including an appeal to the Coastal Commission, which has the effect of upholding the approval (Article II Section 35-57B).

WORK PROHIBITED PRIOR TO PERMIT ISSUANCE: No work, development, or use intended to be authorized pursuant to this permit approval shall commence prior to issuance of this permit and/or any other required permit (e.g., building permit).

OWNER/APPLICANT ACKNOWLEDGMENT: Undersigned permittee acknowledges receipt of this approval and agrees to abide by all conditions and terms thereof. Undersigned permittee also acknowledges that issuance of this permit for this project does not allow construction or use outside of the project description, nor shall it be construed to be an approval of a violation of any provision of any County policy, ordinance or other governmental regulation.

Print name

Signature

Date

Coastal Development Permit Approval By:

Chair, Board of Supervisors

Date

PERMIT ISSUANCE: The permit shall be issued and deemed effective on the date signed and indicated below.

Planning and Development Department Issuance By:

Planner

Date

ATTACHMENT A: CONDITIONS OF APPROVAL

Project Description

1. **Proj Des-01 Project Description:** This Coastal Development Permit is based upon and limited to compliance with the project description, the July 19, 2016 hearing exhibits, and all conditions of approval set forth below, and specified plans and agreements included by reference, as well as all applicable County rules and regulations.

The project description is as follows:

The project is for a Coastal Development Permit to allow demolition of the existing 3,802 square foot two-story residence and 520 square foot attached garage, and construction of a new 3,187 square foot, two story single family dwelling with the first floor being approximately 1,935 square feet, the second floor being approximately 1,252 square feet, and with an 881 square foot basement, a new detached garage of approximately 680 square feet, and a new detached pool cabana of approximately 570 square feet. The project would require approximately 500 cubic yards of cut, 100 cubic yards of fill, and 400 cubic yards of export. The parcel will continue to be served by the Montecito Water District, the Montecito Fire Department, and Montecito Sanitary District. Access to the site will continue to be provided off of Channel Drive. The project is a 0.44-acre parcel zoned 1-E-1 and shown as Assessor's Parcel Number 009-352-019, located at 1154 Channel Drive in the Montecito Community Plan area, First Supervisorial District, Santa Barbara County, California.

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 must be submitted for review and approval and shall be implemented as approved by the County.

Conditions By Issue Area

3. **Aest-04 BAR Required:** The Owner/Applicant shall obtain Board of Architectural Review (BAR) approval for project design. All project elements (e.g., design, scale, character, colors, materials and landscaping shall be compatible with vicinity development and shall conform in all respects to the BAR approved plans associated with case no. 14BAR-00000-00082. The MBAR shall verify that landscaping shall not impair existing private views of neighbors of the ocean.
TIMING: The Owner/Applicant shall submit architectural drawings of the project for review and shall obtain final BAR approval prior to issuance of this Coastal Development Permit. Grading plans, if required, shall be submitted to P&D concurrent with or prior to BAR plan filing.
MONITORING: The Owner/Applicant shall demonstrate to building inspection staff that the project has been built consistent with approved BAR design and landscape plans prior to Final Building

Inspection Clearance.

4. **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 10:00 p.m.

PLAN REQUIREMENTS: The Owner/Applicant shall develop a Lighting Plan for MBAR approval incorporating these requirements and showing locations and height of all exterior lighting fixtures with arrows showing the direction of light being cast by each fixture.

TIMING: Lighting shall be installed in compliance with this measure prior to Final Building Inspection Clearance.

MONITORING: P&D and/or BAR shall review a Lighting Plan for compliance with this measure prior to design review approval and prior to issuance of this Coastal Development Permit. P&D planner shall review Building plans for compliance as well. Building & Safety inspection staff shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan prior to final occupancy clearance.

5. **Bio-10 Storm Water BMPs:** To minimize pollutants impacting downstream waterbodies or habitat, the parking area and associated driveways shall be designed to minimize degradation of storm water quality. Best Management Practices (BMPs) such as landscaped areas for infiltration (vegetated filter strips, bioswales, or bioretention areas), designed in accordance with the California Stormwater BMP Handbook for New Development and Redevelopment (California Stormwater Quality Association) or other approved method shall be installed to intercept and remove pollutants prior to discharging to the storm drain system. The BMPs selected shall be maintained in working order. The landowner is responsible for the maintenance and operation of all improvements. BMP maintenance is required for the life of the project and transfer of this responsibility is required for any subsequent sale of the property.

PLAN REQUIREMENTS: The BMPs shall be described and detailed on the site, grading and drainage and landscape plans, and depicted graphically. The location and type of BMP shall be shown on the site, building and grading plans.

TIMING: The plans and maintenance program shall be submitted to P&D for approval prior to approval of first grading or building permit.

MONITORING: Building inspection staff shall site inspect for installation prior to Final Building Inspection Clearance.

6. **Bio-20a Equipment Washout:** The Owner/Applicant shall designate one or more washout areas 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 these areas and removed from the site weekly. The areas 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 site plans for zoning and building permits.

TIMING: The Owner/Applicant shall install the area prior to commencement of construction.

MONITORING: B&S inspection staff shall ensure compliance prior to and throughout construction.

7. **CulRes-09 Stop Work at Encounter:** The Owner/Applicant and/or their agents, representatives or contractors shall stop or redirect work immediately in the event archaeological remains are encountered during grading, construction, landscaping or other construction-related activity. The

Owner/Applicant shall retain a P&D approved archaeologist and Native American representative to evaluate the significance of the find in compliance with the provisions of Phase 2 investigations of the County Archaeological Guidelines and funded by the Owner/Applicant.

PLAN REQUIREMENTS: This condition shall be printed on all building and grading plans.

MONITORING: P&D permit processing planner shall check plans prior to approval of first grading or building permit and B&S inspection staff shall spot check in the field throughout grading and construction.

8. **Noise-02 Construction Hours:** The Owner /Applicant, including 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 interior construction activities such as plumbing, electrical, drywall and painting (which does not include the use of compressors, tile saws, or other noise-generating equipment) are not subject to these restrictions.

Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein.

PLAN REQUIREMENTS: The Owner/Applicant shall provide and post a sign stating these restrictions at all 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.

9. **Parking-02 Onsite Construction Parking:** All construction-related vehicles, equipment staging and storage areas shall be located onsite and outside of the road and highway right of way. The Owner/Applicant shall provide all construction personnel with a written notice of this requirement and a description of approved parking, staging and storage areas. The notice shall also include the name and phone number of the Owner/Applicant's designee responsible for enforcement of this restriction.

PLAN REQUIREMENTS: Designated construction personnel parking, equipment staging and storage areas shall be depicted on project plans submitted for building and grading permits.

TIMING: A copy of the written notice shall be submitted to P&D permit processing staff prior to approval of first grading or building permit. This restriction shall be maintained throughout construction.

MONITORING: Building and Safety inspection staff shall confirm the availability of designated onsite areas during construction, and as required, shall require re-distribution of updated notices and/or refer complaints regarding offsite parking to appropriate agencies.

10. **WatCons-03 Water Conservation in Landscaping:** The project is subject to the California Water Conservation in Landscaping requirements. The Owner/Applicant shall fill out, obtain the stamp of the appropriate licensed professional, sign, and submit to P&D a [Residential Water Authorization Supplemental application or Water Efficient Landscape Ordinance Supplemental application, as appropriate to the size of the landscape area].

TIMING: The supplemental application shall be completed, stamped, signed, and submitted to P&D prior to issuance of this Coastal Development Permit. The landscape and irrigation shall be installed

per plan prior to Final Building Inspection Clearance.

MONITORING: Building inspection staff shall check in the field prior to Final Building Inspection Clearance.

County Rules and Regulations

11. **Rules-02 Effective Date:** This Coastal Development Permit shall become effective upon the expiration of the applicable appeal period provided an appeal has not been filed. If an appeal has been filed, the planning permit shall not be deemed effective until final action by the review authority on the appeal, including action by the California Coastal Commission if the planning permit is appealed to the Coastal Commission.
12. **Rules-03 Additional Permits Required:** The use and/or construction of any structures or improvements authorized by this approval shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.
13. **Rules-05 Acceptance of Conditions:** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.
14. **Rules-10 CDP Expiration:** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Board of Supervisors. 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 Board of Supervisors 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.
15. **Rules-20 Revisions to Related Plans:** The Owner/Applicant shall request a revision for any proposed changes to approved plans. Substantial conformity shall be determined by the Director of P&D.
16. **Rules-23 Processing Fees Required:** Prior to approval of first Grading or Building permit, the Owner/Applicant shall pay all applicable P&D permit processing fees in full as required by County ordinances and resolutions.
17. **Rules-28 NTPO Condition:** A recorded Notice to Property Owner document is necessary to ensure that the pool cabana is only for its permitted uses.
TIMING: The property owner shall sign, record, and provide P&D with a copy of the document prior to issuance of this Coastal Development Permit.
18. **Rules-29 Other Dept Conditions:** Compliance with Departmental/Division letters required as follows:
 1. Air Pollution Control District dated June 27, 2014.

19. **Rules-30 Plans Requirements:** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
20. **Rules-32 Contractor and Subcontractor Notification:** The Owner/Applicant shall ensure that potential contractors are aware of County requirements. Owner / Applicant shall notify all contractors and subcontractors in writing of the site rules, restrictions, and Conditions of Approval and submit a copy of the notice to P&D compliance monitoring staff.
21. **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.
22. **Rules-35 Limits:** This approval does not confer legal status on any existing structure(s) or use(s) on the property unless specifically authorized by this approval.
23. **Rules-37 Time Extensions:** The Owner / Applicant may request a time extension prior to the expiration of the permit or entitlement for development. The review authority with jurisdiction over the project may, upon good cause shown, grant a time extension in compliance with County rules and regulations, which include reflecting changed circumstances and ensuring compliance with CEQA. If the Owner / Applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.



County of Santa Barbara BOARD OF SUPERVISORS

Minute Order

July 19, 2016

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

PLANNING AND DEVELOPMENT

File Reference No. 16-00496

RE: HEARING - Consider Case No. 16APL-00000-00007, the Olsten Trust Appeal of the Montecito Planning Commission's March 23, 2016 denial of the Olsten Trust Single-Family Dwelling Demo-Rebuild, New Detached Garage, Pool Cabaña, and Pool (Case No. 14CDH-00000-00014), First District, and consider taking the following actions: (EST. TIME: 1 HR.)

- a) Deny the appeal, Case No. 16APL-00000-00007;
- b) Make the required findings for denial of the project, including the California Environmental Quality Act (CEQA) findings;
- c) Determine that denial of the project is exempt from CEQA pursuant to Section 15270 of the State Guidelines for the implementation of CEQA; and
- d) Deny the project de novo, Case No. 14CDH-00000-00014.

COUNTY EXECUTIVE OFFICER'S RECOMMENDATION: POLICY

Received and filed staff presentation and conducted public hearing.

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

- a) Approved the appeal, Case No. 16APL-00000-00007.
- b) Adopted required findings for approval of the project including CEQA findings included in Exhibit 1 as presented to the Board at the hearing.
- c) Determined that approval of the project is exempt from CEQA pursuant to Sections 15301 and 15303 of the State Guidelines for the implementation of CEQA specified in Exhibit 2 as presented to the Board at the hearing.
- d) Approved the project de novo, Case No. 14CDH-00000-00014, subject to the conditions of approval in Exhibit 3 as presented to the Board at the hearing.
- e) Waived the Notice of Exemption 6-day posting requirement for good cause pursuant to County CEQA Guidelines Section V),D),2).

The motion carried by the following vote:

Ayes: 3 - Supervisor Farr, Supervisor Adam, and Supervisor Lavagnino

Noes: 1 - Supervisor Wolf



County of Santa Barbara
BOARD OF SUPERVISORS
Minute Order

July 19, 2016

Recused: 1 - Supervisor Carbajal



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.

Exhibit 7
Air Pollution Control District Conditions
Appeal No. A-4-STB-16-0076



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 a 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: All requirements shall be shown on grading and building plans and/or as a separate information sheet listing the conditions of approval to be recorded with the map. **Timing:** Requirements shall be shown on plans prior to grading/building permit issuance and/or recorded with the map during map recordation. Conditions shall be adhered to throughout all grading and construction periods.

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

Received

AUG 19 2016

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

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

California Coastal Commission
South Central Coast District



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Michael Hair, Olive Mill Trust
Mailing Address: c/o Susan Petrovich, Brownstein Hyatt Farber Schreck, P.O. Drawer 720
City: Santa Barbara Zip Code: 93102 Phone: 805-882-1405

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Santa Barbara
2. Brief description of development being appealed: 4-STB-16-0772
SEE ATTACHED
3. Development's location (street address, assessor's parcel no., cross street, etc.):
1154 Channel Drive, Santa Barbara, CA 93108
APN: 009-352-019
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions: MBAR approval, lighting, other standard conditions for new construction
☐ 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: A-4-STB-16-0076
DATE FILED: 8/19/16
DISTRICT: So. Central Coast

Exhibit 8

Appeal No. A-4-STB-16-0076

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: 7/19/2016

7. Local government's file number (if any): 14.CDH-00000-00014
16 APL - 00000-00007

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:

Olsten Montecito Trust
6520 Meetinghouse Road
New Hope, PA 18938

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) SEE ATTACHED

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

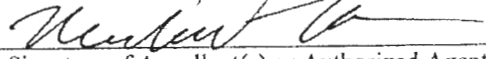
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local 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.

SEE ATTACHED

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.



Signature of Appellant(s) or Authorized Agent

Date:

8/18/16

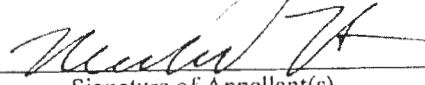
Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

Susan Petrovich, and Brownstein Hyatt Farber Schreck

to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date:

8/18/16

APPEAL FROM COASTAL PERMIT DECISION
COUNTY OF SANTA BARBARA
OLSTEN TRUST HOUSE DEMOLITION AND REPLACEMENT

SECTION II. 2 – BRIEF DESCRIPTION OF DEVELOPMENT BEING APPEALED

Applicant is an absentee landowner whose members live in Pennsylvania. Applicant proposes to demolish a house and garage constructed prior to adoption and implementation of the Montecito Community Plan and Coastal Zoning Ordinance. The Community Plan and Coastal Zoning Ordinance, both incorporated into the Santa Barbara County Coastal Land Use Plan, include land use goals and policies and Architectural Guidelines that call for protection of public and private views of the ocean and mountains. The existing house has a second story element that partially obstructs mountain views from Channel Drive (a popular recreational area adjacent to the beautiful Butterfly Beach) and obstructs ocean views for residents of Hill Road, including appellant and his neighbors. With the demolition, the lot will be scraped and the viewshed will be restored – at least until the applicant begins building the proposed new house. The proposed house will add 14 feet of width to the second story (as viewed from Channel Drive) and will be double the size of the second story on the existing house. It also will have considerable size, bulk and scale that will impact the Channel Drive viewshed. The house plans also include a landscape plan with trees that will be taller than the house and will add new view blockage not present with the current house. In short, the proposed project will INCREASE view blockage. Appellant contends that, instead of reducing the second story size and view blockage, the project will exacerbate view blockage, not remove or reduce the existing visual blight. As such, the project is not consistent with existing land use policies. Under the Coastal Act and Coastal Land Use Plan, there should be no second story because any second story will block views of the ocean and mountains. But if a second story is approved, it should not exceed the size and width of the existing second story. No mountain and ocean view blockage is better than some blockage, but a project that increases view blockage should not be allowed.

Appellant contends that the proposed new house must be judged under the current Coastal Zone and County standards because it is just that – an entirely new house being built in the Coastal Zone now.

The neighbor immediately to the west of the project site submitted a letter during public comment, stating he and his wife had tried numerous times over 17 years to obtain County approval to replace their existing single-story home with a 2-story home, all without success. He stated that the reason stated for denial of his requests was the potential blockage of public views of the mountains. Why would the proposed applicant be treated differently from the neighbor?

The proposed new home also will include a basement where none now exists and a new swimming pool that is in a different location from the existing pool. The appellant contends that the project plans deliberately understate the cubic yardage resulting from excavation and export of the soil displaced by the basement construction and, possibly, the pool replacement. Mr. Hair, who has extensive expertise in construction, estimates the export at 1,000 cubic yards or more for the basement alone. The plans are not sufficiently detailed to ascertain the amount of export required for the pool replacement so one can only guess at that total, since the applicant didn't include that information.

The project site is in an unusual location from a traffic circulation perspective. Channel Drive essentially dead-ends to west. To the east, there is poor access to other surface streets because of the unique configuration of Coast Village Road and Highway 101. Highway 101 at Coast Village Road offers only a southbound entrance that doesn't meet freeway safety standards, being short and forcing merging traffic to compete with highway traffic attempting to exit at the busy San Ysidro Road interchange. To catch Highway 101 north, hauling trucks either must enter 101 southbound and immediately exit at San Ysidro Road, then lumber across the crowded and undersized San Ysidro Road bridge and re-enter 101 northbound, or travel through Montecito's Lower Village shopping strip (an area generally choked with traffic during normal business hours), brave a roundabout with an unusually tight turning radius and fast-moving cars, then enter Highway 101 northbound at Hot Springs Road.

This project will be under construction at the same time as the Highway 101 widening and/or the Miramar Hotel construction. As such, the project will have considerable traffic impacts and may pose a serious hazard to existing local traffic trying to deal with cumulative traffic conditions and congestion caused by Coastal Village Road and Highway 101 being undersized for current traffic loads. The County completely failed to analyze the individual and cumulative impacts of export of soil from this project site upon traffic and air quality. Why? Because the applicant underestimated the export volumes so they slipped under the County's thresholds of significance. No one doubled-checked the applicant's figures, despite the appellant having pointed out the issue.

The air quality impacts on the community and the traffic hazard for the public from these trucks have not been analyzed – the CEQA exemption is inadequate and inappropriate. Appellant repeatedly raised these issues at the County decision-making level, but the applicant never addressed the issues.

The Montecito Planning Commission (MPC) review of this project included an official site visit (plus multiple site visits conducted by individual commissioners), required story poles, and four (4) hearings (two of which were continued at the applicant's request).

At the first hearing on May 20, 2015, there was substantial neighborhood opposition. The primary objections were to the overall size, bulk and scale of the project and the view blockage from the new, enlarged second story element, as well as the violation of the Coastal Act, the Local Coastal Plan policies, and the Montecito Community Plan goals, policies, and architectural guidelines/building standards. The MPC advised the

applicant that it was going to deny the project unless the applicant preferred an indefinite continuance to provide adequate time to reach out to the neighbors and to revise the project in response to input from the neighbors. The applicant asked for the continuance.

The applicant did not reach out to the neighbors who had expressed opposition. Appellant tried to talk with the applicant, but the applicant "wasn't available" except for one specific date that conflicted with Appellant's schedule. The applicant prepared and submitted revised plans that only slightly reduced the size, bulk and scale and retained the enlarged second story.

At the second MPC hearing on January 20, 2016, the MPC members expressed frustration at the applicant's failure to reflect in the revised plans the comments from the neighbors and MPC. The MPC voted to conceptually deny the project and directed staff to come back with findings for denial.

On February 17, 2016, the date set for the continued hearing, the applicant requested a further continuance to further revise the project. Instead, the applicant came back with minor revisions but essentially the same project.

On March 20, 2016, the MPC voted to deny the project and adopted findings for denial.

The applicant appealed the denial. Despite concerns expressed by the Montecito Association Land Use Committee and Board of Directors and by a large number of Montecito residents and immediate neighbors, and the Board of Supervisors, on a 3-1 vote, approved the project with no changes.

SECTION II.4 – DESCRIPTION OF DECISION BEING APPEALED

The conditions imposed on this project by the Board of Supervisors may nominally be "special conditions," but for Montecito projects in Coastal Zone, these conditions are standard. They do not even begin to address the impacts of the proposed construction and landscaping.

SECTION III – IDENTIFICATION OF OTHER INTERESTED PARTIES

Many people sent emails and letters, and some testified, at the various hearings on this project. The project was conceptually reviewed by the Montecito Board of Architectural Review (MBAR) multiple times, with the applicant making plan revisions each time, but essentially retaining an over-sized structure with a second story that is double the size of the current second story. The Montecito Planning Commission (MPC) reviewed the project three (3) times and denied it every time.

Various people testified in person while others sent letters and emails, so the list of interested persons would be long, indeed. The applicant dragged in people from all over Montecito (primarily real estate agents and others who did business with applicant's architect and attorney) to support the project. The following is a list of neighbors who repeatedly submitted emails and letters and/or testified at the hearings in

opposition to the project. Given more time, we could review the County's administrative record to provide a more comprehensive list of all people who ever submitted comments on the project, pro or con. If that is necessary, we ask that adequate notice be given to appellant because it will take some time to compile a complete list.

Here are the neighbors in opposition:

1. Heather Sturgess, 1159 Hill Road, Santa Barbara, CA 93108
2. Tom Sturgess, 1159 Hill Road, Santa Barbara, CA 93108
3. Ned Quackenbush, 1120 Hill Road, Santa Barbara, CA 93108
4. Michael Hair, 1169 Hill Road, Santa Barbara, CA 93108
5. Jeffrey Resnick, 1147 Hill Road, Santa Barbara, CA 93108
6. John Sanford, 1115 Hill Road, Santa Barbara, CA 93108
7. Hayim Abulafia, 1132 Channel Drive, Santa Barbara, CA 93108
8. Eric Stille, 1155 Hill Road, Santa Barbara, CA 93108
9. Kate Stille, 1155 Hill Road, Santa Barbara, CA 93108
10. Taryn Martin, 1126 Hill Road, Santa Barbara, CA 93108
11. Carolyn Quackenbush, 1120 Hill Road, Santa Barbara, CA 93108
12. Debbie Resnick, 1147 Hill Road, Santa Barbara, CA 93108
13. Hayim Abulafia, 1132 Channel Drive, Santa Barbara, CA 93108
14. Julie Abulafia, 1132 Channel Drive, Santa Barbara, CA 93108
15. Jeffery Newman, 90 Butterfly Lane, Santa Barbara, CA 93108
16. Bill McIntosh, 1150 Hill Road, Santa Barbara, CA 93108
17. David Cornwall, 1126 Hill Road, Santa Barbara, CA 93108
18. Patti Cornwall, 1126 Hill Road, Santa Barbara, CA 93108

SECTION IV. REASONS SUPPORTING THIS APPEAL

The proposed project is far too large and bulky, with too much second story, for such a small parcel – 0.44 acre. The total square footage of proposed new structures (this does not include the swimming pool), is 5,318 square feet – 28% of the lot area of 17,424 square feet – and includes 1,252 square feet of second story that pops up

between the public viewing area on and along Channel Drive and the mountains and between the Hill Road neighbors and the ocean.

To provide perspective, the Montecito Community Plan Architectural Guidelines and Building Standards set a floor area ratio (the proportion of structure size to lot size) for this project at 2900 square feet $[1800 + (2500 \times L)]$ where L is parcel area in acres]. The proposed second story, at 1,252 square feet, represents 43% of the maximum FAR. How did the applicant get around this? By using loopholes – taking 570 square feet of living space and moving it into what is called a “cabana” that is in the rear of the lot, far from the pool or the beach, with the main house and landscaping obstructing access. The cabana is nothing less than another bedroom connected to the house via a breezeway. The project plans pack maximum square footage into accessory structures and a basement because the County currently doesn’t count those areas in the floor area ratio – another loophole that the County is in the process of closing because of the resulting proliferation of structures on parcels, proposed simply because they are a means of avoiding the floor area ratio formula.

The project includes an inordinate amount of glazing – floor to ceiling windows that will result in significant new night lighting and glare. The applicant, claiming to have “reduced the glazing by 40%” didn’t reduce the glazing at all. Rather, the applicant proposes “shutters” that really are screens that slide from side to side and can be opened outward. In short, another faux-fix to large glass areas that will impact nighttime views from public viewing places and the night sky. Compared to the existing house on the lot, the proposed project would increase the glazing on the south side of the house facing Channel Drive by 82% on the first story (221 square feet in the existing; 402 square feet in the proposed) and 23% on the second story (149 square feet in the existing; 184 square feet in the proposed). Total south facing glass in the existing house is 370 square feet; in the proposed, it will be 586 square feet. Yet the applicant claims to have reduced the glazing by 40%!

Overall, the proposed project, besides having twice the second story square footage, is larger than the existing house by 940 square feet (on a parcel for which the total floor area ratio size is only 2900 square feet) – see the attached chart.

The entire Coastal Zone in Montecito provides uniquely beautiful visual resources, but Channel Drive has special value because of its direct proximity to, and views of, a long stretch of white sand beach to the south and the mountain range to the north. In short, Channel Drive is an attraction for local residents and for people from all over the nation and the world who visit Montecito. As several public speakers (speaking in opposition to this project) during the public hearings on this project have said, Channel Drive is the “jewel of Montecito.” The proposed project will be a significant blemish on that jewel, if this appeal is denied.

CEQA Does Not Allow the Use of an Exemption in Lieu of Environmental Review Where there is a Potential Significant Impact on Resources, or Even a "Reasonable Probability" of Same.

Categorical exemptions from CEQA compliance must be used sparingly to avoid approving a project that, because of unique circumstances associated with either the project or the site, has a potential for significant impacts and requires further analysis, either through a mitigated negative declaration or an EIR.

The CEQA exemptions cited by the County as a basis for not conducting environmental review are not applicable when the project site is in a sensitive environment such as that found in the Coastal Zone along Channel Drive. Channel Drive draws multitudes of local Santa Barbara residents and millions of visitors year-round. This project requires environmental review for its impact upon visual and recreational resources and on air quality and traffic as described in more detail above.

The CEQA exemptions do not apply where there is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances. The particularly prominent location of this lot, in plain sight of everyone using Channel Drive and its environs for recreational purposes, and its position between the recreational area and the mountains, makes this an unusual situation.

The traffic and air quality impacts resulting from the large export of fill provide additional grounds for not applying the CEQA exemptions to this project.

The County erred in not requiring environmental review for this project and in not requiring that the second story be eliminated or substantially reduced and the landscape plan be revised to remove the many large trees proposed by the applicant, which trees (in addition to the structure) will block public views of the mountains and private views of the ocean.

This Project Has Regional, Statewide, and National Significance Because of the Recreational Importance of Channel Drive.

The project site is located close to the Biltmore Hotel, an historic and popular destination for visitors. Channel Drive is a world-renowned visitor serving destination. The ocean in this area is clean and the waves gentle. Dolphins and migrating whales can be spotted from Channel Drive and the beach. The white sand beach of Butterfly Beach, framed by the historic sandstone wall along Channel Drive, is a popular attraction for visitors and locals alike. Many a wedding or engagement photograph has been taken from Butterfly Beach. Parking is free along Channel Drive, making it even more attractive to visitors. Many people take their daily exercise here -- walking (with and without dogs) and riding their bicycles. Tourists on rental bicycles travel to Channel Drive from the beach areas of the City of Santa Barbara.

The proposed project is directly in the viewshed of this valuable recreational resource.

The Project Violates Multiple Coastal Act and Santa Barbara County Coastal Plan Provisions. The Montecito Community Plan Is a Part of the Santa Barbara County Coastal Plan.

Public Resources Code Section 30251 – 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 be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas.

As described in detail in this appeal, the proposed project not only doesn't protect views to and along the ocean, it perpetuates and increases impairment of these views. To try to mask the mass of the structure, the applicant proposes landscaping that will simply increase the mass because of the huge trees proposed. Because the applicant will be demolishing the existing building, which has a significant adverse impact on views and scenic coastal resources because of its intrusive and imposing second story, the visual quality of the area (degraded by the existing second story) can be restored by eliminating or minimizing the size of the second story in the new house and by modifying the landscaping proposed as "screening." Instead the proposed project will make things worse.

Public Resources Code Section 30253.(d) – New development shall minimize energy consumption and vehicle miles traveled.

With the excavation associated with this project, the project is inconsistent with this requirement.

Coastal Plan Policy 1-4 – Prior to issuance of a coastal development permit, the County shall make the finding that the development reasonably meets the standards set forth in all applicable land use plan policies.

The County adopted these findings, but the evidence doesn't support the findings.

Coastal Plan Policy 3-13 – Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.

The project proposes a basement that itself is unnecessary, but it also is unnecessarily deep because the applicant wants high ceilings on every story, including the basement. In an effort to retain these high ceilings but keep the structure from becoming too high, the applicant proposes to "sink" the first floor into the ground. That means more excavation for the basement – and more export material.

Coastal Plan Policy 4-4 – New structures shall be in conformance with the scale and character of the existing community.

Because the proposed structure will block public and private views, create a night sky impact and lantern effect, substantially exceed the recommended FAR, shout "look at me" rather than fitting into the neighborhood, and is of a size, bulk and scale incompatible with neighboring properties, particularly those of the same small lot size, it cannot be found consistent with this policy.

The Montecito Community Plan states in its preamble, "To allow development in a manner consistent with available resources and in keeping with the semi-rural residential quality of life, the Community Plan Goals and Policies shall guide development within the Comprehensive Plan for the Montecito Planning Area." (Montecito Community Plan, p. 26)

As explained in the Montecito Community Plan, Montecito citizens have taken land use planning seriously for decades before the County undertook that job. For example, in 1927, a group of Montecitans drew up a "Montecito Protective Covenant" to protect the community character, and in 1928, citizens of Montecito drew up a land use ordinance for the area. Montecito was the first place in Santa Barbara County to have a zoning ordinance, adopted by the County Board of Supervisors in January 1929. [See Montecito Community Plan, page 9.]

Montecito Community Plan Policy PRT-M-1.6 – new development shall not adversely impact existing recreational facilities and uses.

This project's second story element blocks mountain views from a heavily used recreational area. People walk and bicycle through this area throughout the day and in all seasons.

Montecito Community Plan Policy AQ-M-1.3 – Air pollution emissions from new development and associated construction activities shall be minimized to the maximum extent feasible.

Accurate and credible basement and pool excavation figures haven't been provided and, until they are, this finding cannot be made. Perhaps the finding can't be made even with this information.

Montecito Community Plan GOAL LU-M-1: In Order To Protect The Semi-Rural Quality of Life, Encourage Excellence In Architectural And Landscape Design. 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.

This is the first land use goal set by the County when it adopted the Montecito Community Plan. This is the ultimate policy statement – to protect the community's quality of life and promote land compatibility by protecting privacy and both public and private view of those most precious of our visual resources, the mountains and ocean. The Montecito Community Plan was the first of its kind in the County and the only

Community Plan that was largely crafted by the community's residents – volunteers who devoted hours of hearings and consideration of the proper wording to protect the unique character of their community. It goes without saying that this project, with its significant blockage of public views toward the mountains and private views toward the ocean, completely disregards this major objective of the Community Plan.

Montecito Community Plan GOAL LU-M-2: Preserve Roads As Important Aesthetic Elements That Help To Define The Semi-Rural Character Of The Community. Strive To Ensure That All Development Along Roads Is Designed In A Manner That Does Not Impinge Upon The Character Of The Roadway.

This proposed project will loom over Channel Drive and flood the area with light at night. In short, it will impinge upon the character of this roadway.

Montecito Community Plan Policy LU-M-2.1: New structures shall be designed, sited, graded and landscaped in a manner which minimizes their visibility from public roads.

The proposed project includes a landscape plan that would cram huge trees into the sideyards and backyard of the property, so both the structure and its landscaping will be highly visible from Channel Drive.

Montecito Community Plan Policy LU-M-2.2: Lighting of structures, roads and properties shall be minimized to protect privacy, and to maintain the semi-rural, residential character of the community.

The large amount of glazing proposed with this project is contrary to this policy. Rather than being semi-rural in character, this house has been variously described as "a slice of Malibu" and "something more suitable for Santa Monica." It certainly is NOT semi-rural in character.

Montecito Community Plan Policy VIS-M-1: Development shall be subordinate to the natural open space characteristics of the mountains.

This project blocks the view of the mountains rather than being subordinate to the mountains.

Montecito Community Plan Policy VIS-M-1.3: Development of property should minimize impacts to open space views as seen from public roads and viewpoints.

This project does the opposite – it perpetuates and increases impacts to open space views from Channel Drive.

Coastal Zoning Ordinance Compliance

Section 35-71.1 – It is the intent of this district to protect the residential characteristics of an area.

The sheer size of this structure, squeezed onto a tiny lot that is substandard in size for the neighborhood, results in this project not complying with this ordinance.

Findings Required Under the County Coastal Zoning Ordinance for Project Approval

2.2.1 – The proposed development conforms (1) To the applicable policies of the Comprehensive Plan, including the Coastal Land use Plan; (2) With the applicable provisions of this Article and/or the project falls within the limited exception allowed under Section 35-161.

This proposed project does not conform to all applicable policies of the Coastal Land Use Plan, the Montecito Community Plan, and the Coastal Zoning Ordinance. Of particular import are: the improper designation of part of the living space as a cabana when it is nowhere near the pool or beach, the view impacts, the glazing and associated night lighting and glare, the second story and landscaping blockage of public and private views, the size, bulk and scale, and the general incompatibility with the neighborhood. Although having a substandard lot size does not preclude development of the parcel, the inordinately small lot size must be factored into the compatibility analysis because this is just too much house on too small a site.

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.

The proposed development NOT is in compliance with all laws, rules and regulations pertaining to zoning uses, setbacks, view blockage, and other applicable provisions of the County's Coastal Land Use Plan for the reasons stated above.

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.

As described above, the project is a brand new building, not a remodel of an existing structure, so it is subject to the County's Coastal Zone ordinance provisions pertaining to view blockage. View blockage from the current house is irrelevant because the existing house was built before current restrictions were implemented. Once the existing structures are demolished, the lot will a blank canvas and the new development must conform to current requirements. Otherwise, the problems addressed by current policies and regulations would be perpetuated forever rather than gradually reduced and eliminated with new construction that conforms to current standards.

There is no vested right to violate current land use regulations and resource protection requirements.

2.2.5 – The development is compatible with the established physical scale of the area.

Physical scale is a function of structural development in relation to total building site size. That is why the Montecito Community Plan floor area ratio concept was developed. House sizes in this area range widely in size, as do the parcels and building sites. Some neighboring parcels, like those of appellant, have multiple legal parcels comprising a single building site. Those residences that substantially exceed the floor area ratio tend to be on sites that are far larger than the 1154 Channel Drive substandard sized lot and were approved prior to implementation of the Montecito Coastal Zoning Ordinance.

This new construction will result in far too much square footage on a small, substandard lot that is highly visible. As one Planning Commissioner eloquently stated, this project was like trying to fit a big boot into a glass slipper – just too much size, bulk and scale (particularly the second story) on a very small lot.

2.2.6 – The development will comply with recreation policies.

Because the project will block mountain views from the recreational area along Channel Drive, this finding cannot be made. People, cruise, walk, and bicycle along and adjacent to Channel Drive. If the proposed house were of the same general size but without the second story, it would be in compliance with these policies. It is not. It proposes to double the size of the second story and to cram a mass of enormous trees onto the lot to "screen" an oversized house, further blocking public views of the mountains.

2.3.1 – The project meets all applicable development standards included in the Montecito Community Plan of the Coastal Land Use Plan.

The project substantially exceeds the FAR, even without counting the 570 square feet of the faux-cabana. It also fails to meet the other development standards described above. Attached are the Montecito Community Plan Architectural Guidelines and Development Standards that apply. Please note that these guidelines and standards incorporate the concept of the "good neighbor" who respects neighbors' viewsheds and privacy. This project does not reflect a good neighbor.

2.3.2 – The development will not adversely impact recreational facilities and uses.

The Channel Drive area provides fabulous recreational facilities, which locals and visitors alike utilize by walking, driving and riding bikes all year round. The mountain view blockage, plus the glare and night glow from the project as designed, adversely impact this valuable recreational resource.

ATTACHMENTS TO APPEAL FROM COASTAL PERMIT DECISION
COUNTY OF SANTA BARBARA
OLSTEN TRUST HOUSE DEMOLITION AND REPLACEMENT

MONTECITO ARCHITECTURAL GUIDELINES AND DEVELOPMENT STANDARDS EXCERPTS

Page 2 – GOALS

1. To preserve, protect and enhance the existing semi-rural environment of Montecito.
2. To enhance the quality of the built environment by encouraging high standards in architectural and landscape design.
3. ***To ensure the neighborhood compatibility of all projects.***
4. ***To respect public views of the hillsides and the ocean and to be considerate of private views.***
5. ***To ensure that architecture and landscaping respect the privacy of immediate neighbors.***

Page 3 – GOOD NEIGHBOR POLICIES

1. Consider proposed house design within the context of the neighborhood.
2. ***Consider mutual neighborhood privacy in all aspects of the house design and site layout, including noise and lighting.***
3. ***Consider your neighbors' views and privacy*** in the placement and architectural appearance of your house or addition.

Page – REQUIRED FINDINGS

1. Overall building shapes, as well as parts of any structure . . . shall be in proportion to and compatible with the bulk and scale of other existing or permitted structures on the same site and in the neighborhood surrounding the property.
5. ***There shall be a harmonious relationship with existing developments in the surrounding neighborhood***

Page 5 – USE OF ARCHITECTURAL GUIDELINES

The Architectural Guidelines are prepared to assist property owners and architects in designing projects that will be compatible with the existing community and the neighborhood in which they are sited.

Page 10 – NEIGHBORHOOD COMPATIBILITY

1. Definition: ***"Neighborhood compatibility" is the relationship between the surrounding structures and their settings so that the effect of all structures taken together is aesthetically pleasing, keeping the neighborhood in harmony and balance.***
3. Guidelines: In order to evaluate a project's neighborhood compatibility, the overall relationship of the following elements shall be considered:
 - a. Parcel size;
 - b. Topography of the neighborhood and how structures are sited . . . ;
 - c. Size, mass, bulk and scale of existing and proposed structures in relation to parcel size and development of adjacent properties;
 - e. Height and visibility of buildings from roads.

Page 12 – SIZE, BULK AND SCALE

TABLE 1 – FAR for lot less than 1 acre gross – $1,800 + (2,500 \times L)$, L = parcel area. **A project with a floor area (size) substantially in excess of the floor area of the surrounding properties will have the burden of demonstrating that the project cannot be viewed from surrounding property owners due to siting or that its spatial volume (mass, bulk and scale) when taken together with its lot size, setbacks and landscaping does not make it incompatible with similar surrounding properties.**

Pages 14-16 – VIEW AND PRIVACY PROTECTION

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

Page 20 – ARCHITECTURAL FEATURES, MATERIALS AND COLORS

Guidelines – Building materials and colors should minimize the visual impact of the structure from public roads and lanes, blend with existing land forms and vegetative cover, be compatible with others in the neighborhood, **and not attract attention to themselves. . . . ii. Materials with high reflectivity value (excluding windows) should be avoided.**

1154 Channel Drive

Exceeds FAR's and Current Development Square Footage

	<u>Existing</u>	<u>Proposed</u>
Basement	0 sq. ft.	881 sq. ft.
First Floor	3,136 sq. ft.	1,935 sq. ft.
Second Floor	666 sq. ft.	1,252 sq. ft.
Attached Garage	576 sq. ft.	0 sq. ft.
Detached Garage	0 sq. ft.	680 sq. ft.
Detached Cabana	0 sq. ft.	570 sq. ft.
Roof Decks	0 sq. ft.	941 sq. ft.
TOTAL Development	4,378 sq. ft.	5,318 sq. ft.
		LARGER BY 940 sq. ft.

From: Petrovich, Susan <SPetrovich@bhfs.com>
Sent: Wednesday, October 12, 2016 3:37 PM
To: Sinkula, Megan@Coastal
Cc: Steenberge, Hillary H.; Sophie Calvin; Sophie Calvin - Calvin Design (sophiecalvin@cox.net); Michael Hair; tom.sturgess@lsf.co.nz
Subject: Enclosed Transcript of Board of Supervisors Hearing on Olsten Trust Project
Attachments: 15123331_1_County of Santa Barbara Board of Supervisors Meeting 7_19_2016.DOCX

Dear Megan:

I attach a transcription of the Board of Supervisors hearing that we believe supports the following opposition to the project:

- a. Material misrepresentations by the applicant team and mistakes by County staff; and,
- b. Through a last minute foreshortening of each speaker's time in the order requested, thereby curtailing the opposition's ability to present a comprehensive and cohesive statement of its position and the support therefor; and,
- c. The preferential treatment of the applicant team in making its presentation.

First, the material misrepresentations:

These are highlighted with red font in the transcript. I will address these in detail below, but wanted to give you examples to demonstrate that, even within the same hearing, statements by Mr. Westen were demonstrated to be untrue, or modified by Mr. Westen himself:

#1 – other 2-story houses on Channel Drive approved by this Planning Commission in past 18 months:

P. 8, last paragraph – Westen: In fact, the Montecito Planning Commission has approved two other two-story homes within the last 18 months or so. One of them, a complete tear down that did not have a second-story at all, and it was improved and the other one was a complete ground up building.

P. 18 – J. Ritterbeck at bottom of page:

Farr: Thank you Mr. Chair, staff, Mr. Westen indicated that several houses had been approved in the last couple of years, with second stories, including at least one that was in this neighborhood. Is that accurate?

Ritterbeck: Mr. Chair, Supervisor Farr, I can think of certainly one, in recent history, in between the project parcel and the Biltmore, the _____ Pool Project was approved in the last year for a two-story residence, and that's currently under construction. I can't verify others, but just haven't done that . . .

P. 24, Collector last paragraph:

Exhibit 9

Correspondence

Appeal No. A-4-STB-16-0076

And Supervisor Farr, the two story house that you mentioned, went up because it was approved by a previous planning commission.

P. 31, Westen at middle of page:

The three houses that, there have actually been three houses on which, Supervisor Farr, have been approved for second story. The house at 1210 Channel Drive had two different two story houses approved. One in 2013 and one in 2015, and the house at 1104 Channel Drive was approved for a new two story in 2005.

[So, the "2 houses approved in the past 18 months" changed to 3 houses because there were 2 consecutive designs for the same lot, not separate houses, and the other house was approved 11 years ago]

#2 – we have removed the eastern part of the existing building to improve Mr. Hair's and Mr. Sturgess' view:

P. 8 – Westen makes this claim 3 times on this page as to improving the Hairs' view at the east end of the house

P. 10, bottom – Westen makes the same claim as to the Sturgess' view being improved by removing this same portion of the view blockage that the current house poses.

P. 34 – starting at the top when Sup. Wolf asks about the claimed elimination of the existing easterly view blockage. Only then does it become clear that only the most southerly block of the new building will be shaved back on the east; the 2-story north portion of the building steps out and restores that view blockage.

These are examples of the misrepresentations being revealed just during the hearing.

Here are examples of other representations, the accuracy of which have been expressly disproved by the photographs and exhibits that we have provided to you in the PowerPoint presentation and in the photographs that included in the binder that is being delivered to you today:

Night lighting – the applicant team presented a series of photographs that purported to accurately reflect what the high lighting will be for the current and proposed houses and compared that to the "glare" from the Hair house to the northeast. What our photographic expert demonstrates with the photographs we have provided is that the supposed accurate rendition of the current and proposed is the result of using time-lapse photography, which, because the lens is left open longer, exaggerates the light coming off a stable source. The first photograph we provided to you is a real-time photo of the night glow from the current home at 1154 and from the Hair home to the northeast. The only thing that has been changed, in order to avoid claims that the Hair lights have been minimized, is that the photographer took these photos after all lights, including all exterior lanterns and other lights, had been turned on. Because the

photographer could not control the lighting in the 1154 house, not necessarily all of the outside lights were on.

These photos depict 2 important facts that the applicant team misrepresented – the only significant lantern effect on the existing home comes from the 2nd story (so increasing the glass area in the 2nd story increases night lighting) and using time-lapse greatly distorts the light that actually is seen from this light source. In short, the privacy wall doesn't have a significant impact on the amount of light that passersby will see if the proposed house is built.

Glass area – P. 7, Westen twice says they are dramatically reducing the glass area with the new house compared to the existing. In fact, they are INCREASING the glass, most importantly on the south elevation that faces Channel Drive. See the exhibit that is part of the opponent's PowerPoint that, using actual square footage, not smoke and mirrors in the form of privacy walls, vegetation, and "screens," shows that they are introducing more glass surface to the exterior, not less. The neighbors' square footage measurement came directly from the applicant's plans.

Claim that the new house will improve, not impair, the mountain views from Channel Drive --

P. 8 – Westen claims 5 times that the mountain view from all perspectives will be improved from Channel Drive – one need only look at the photograph taken by Planning Commissioner Brown and in the neighbors' PowerPoint to see that this is fantasy. But, more to the point, the background used in many of the applicant team's photographs has been fabricated. Background trees have been added that are not there, so it appears that there are so many trees that the mountain views already are impeded. Even the mountain range itself is misrepresented because the background was created by taking one photo from the perspective that the applicant team most liked, then used as a background for other photos, and one rendering that is doctored to look like a photo, to mislead one into believing that there is no mountain view blockage. In addition to the examples that we showed you when we met, we now have actual photos taken by the photography expert, who also is an expert in PhotoShop, that demonstrate how the misrepresentation was accomplished.

Claim that the proposed house virtually "disappears" when viewed from the Hairs' deck, compared to the current house:

P. 9 at the top – Westen claims:

So this first image is taken from Michael Hairs' patio during a public viewing. The house that you see here in the foreground is the existing house and of course he has a wonderful ocean view, both to the east and the west. It's beautiful. This is the proposed house. This is existing; this is proposed. This is photo realistic accurate with the landscaping included and I'm going to show you an over/under photo. I defy any fair-minded person to say that the lower proposed design has any meaningful impact on the Hair's to the north.

Actually, this is neither "photo realistic accurate" nor is it of the proposed house. In order to get the foreground shown, the person manipulating the photo took two consecutive photographs that were overlapping and patched them together. Thus, there are 2 small palms in the foreground on the photo, but only one in reality. More importantly, the house depicted for "proposed" is much smaller than the actual house, both as to width and as to overall size. The footprint of the proposed house with outbuildings is every bit as large as the current house, but the house depicted has been squashed together to eliminate its depth of scale. The western portion of the first floor is almost entirely missing.

It's a lot easier to make a house appear to disappear when using trickery to fool the eye, plus showing a bit of strategically located vegetation that supposedly provides partial screening. In fact, the size, bulk and scale of the proposed house is every bit as great as the existing home in the photos and, as to the 2nd story, is larger and will bring the bulk even closer to both the Hair and Sturgess homes. Manipulation of photography won't change that reality. The total footprint of the proposed house with outbuildings and the existing house with outbuildings is virtually the same. But the second story is twice as big on the proposed. With that in mind, ask yourself how these photos can look so different.

On Pp. 15-16, Sup. Wolf questions this photo comparison because the house looks far too small to her. At no time did Westen or the architect ever fess up to the distortion used to make the house look so small.

P. 10, middle of page, Westen claims that overall size, bulk and scale is less than existing:

One has to look at the whole design and this is lower, that is really important, narrower, less massive, reduced FAR and the massing that is of concern does not affect anyone's view if we take this away it makes no difference to any public or private view that is crucial.

This is the fundamentally flawed claim and retaining the same total square footage, doubling size of the second story, and replacing a Mediterranean structure with one glass box on top of another all results in the overall house being more visible and intrusive from Channel Drive with more light glare and more public and private view blockage.

P. 12 – Westen claims that the photographs presented by the neighbors are misleading –

We are there is no way to sugar coat this. We are really offended, professionally and personally by the misrepresentations the opponents have made. I do not have time to go over all of them but I will show you two very quickly. This is a photograph of the actual story poles, the poles are there but we have highlighted them in red so you can see them. This is what the applicants, the opponents say were building. This is reality, this is their image. And we have now superimposed the actual story poles on their blocky white image. And if you, so it is obvious that this is higher, and further to the right and blocky and whiter than reality. It is simply just plain false. And it is worse than that because if you look in this prior photo, this is their photo not ours.

and at P. 13:

It's just plain not honest and there's a rule in law that if a witness says something to you that is not true, you are entitled to discount everything they say.

Applicant's team clearly has manipulated photographs to minimize the impacts of their proposed structure, so they get a jump on the neighbors' testimony by claiming that is the neighbors, not they, who have cheated. In so doing, they completely ignore the photograph submitted by Commissioner Brown who stood in front of the existing house and took a photograph that depicts the existing mountain view. The applicant team made a major error – the background that they used includes a mountain peak that appears nowhere in the Brown photograph because it isn't there. There is a peak to the east and a peak to the west, but not in the location the applicant's background shows in depiction after depiction.

Second, the curtailment of the opposition:

The Board of Supervisors generally allows 3 minutes per speaker during the public comment period. Prior to the hearing, I personally spoke with Supervisor Adam's aide to confirm that we would have at least 3 minutes each and, in fact, to ask that the team of two attorneys and one designer be allowed 15 minutes total in comparison to the 20 minutes total generally allocated to the appellant or applicant (which in this case were one and the same). The request for 15 minutes was denied, but the aide assured me that we each would be given 3 minutes. To ensure that we could make a well-organized presentation, the 3 speakers – Petrovich, Wolfe (note the different spelling from that of the Supervisor because this is a different person), and Calvin – submitted their speaker slips together with a written note on them specifically requesting that they be allowed to speak sequentially for the opposition. See the bottom of Page 13, where I advise the Chair of that intention.

Instead, P. 14, bottom through middle of P. 15 – Chair Adam shortens the time to 2 minutes each and ignores the request.

Pp. 20-21 – I object to being cut off, but the Chair gives no quarter. In contrast, Westen speaks for 24 minutes, including responding to questions, initially, then gets an additional 5 minutes for rebuttal.

One other item of information – the County staff from the outset did not understand that there is a difference between the Montecito Community Plan policies (referred to as goals and policies in the Plan) and the Architectural Guidelines. And the applicant team exploited that.

See, for example, the Westen statement on P. 6, at the bottom, that the project meets the highest standards of the Community Plan. It clearly violates many of the goals and

policies in the Community Plan, which is incorporated as an Appendix to the LCP. And see the Ritterbeck statement at the bottom of P. 9:

There is consideration given to private views as well and that is part of the general good neighbor policies that you want to consider them and BAR does consider them but they are not protected by policy as public views are.

The statement is patently incorrect. The Guidelines include good neighbor "policies" that are flexible. The Montecito Community Plan goals and policies are mandatory, not advisory and are neither flexible nor discretionary. They must be enforced. That goes for public and private view protection equally.

Later, the County Counsel confirms our interpretation, not staff's:

Chairman, Supervisors, I'd just like to add to that, that I agree with the summary but I would say that within the Montecito Community Plan there is a goal that states to the maximum extent feasible private views of the mountains and oceans are to be protected. That is a goal when we get down to action there is a discussion about addressing that within the architectural guidelines. Including private views. Our guidelines are not binding instructions are something that the BAR works within and one of the guidelines as to private views talks about taking into account the impact upon views from neighboring sites it doesn't specify public or private.

I will provide you with more photographs as I receive them from the photographic expert and look forward to meeting with you next week.

Susan

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**County of Santa Barbara Board of Supervisors
Meeting July 19th 2016**

Item 6

- Lavagnino: Okay, we're going to bring it back into session and the first thing we're going to do is have Supervisor Carbajal make a comment.
- Carbajal: Thank you, Mr. Chair. I have been advised by Counsel that while I do not have a legal requirement to recuse myself on this matter, my office has been involved in trying to resolve this matter and to avoid any perception issues; I am going to recuse myself on this issue.
- Speaker: However, you don't get to leave early because we still have a closed session. I thought that was a pretty smooth move. Should we do ex parte?
- Carbajal: Yeah, let's do ex parte.
- Speaker: All right. I had a meeting with ...
- Carbajal: Oh, hang on just one second, let's read it in first.
- Speaker: Chairman, Members of the Board, Item Six is from Planning and Development. It's a hearing to consider Case No. 16-APL-7, the Olsten Trust Appeal of the Montecito Planning Commission's March 23, 2016 denial of the Olsten Trust's Single-Family Dwelling Demo-Rebuild, New Detached Garage, Cabana, and Pool. This is in the first district.
- Adam: [inaudible]
- Lavagnino: Thank you, Mr. Chair. I met with representatives for the applicant or the appellant, no. I met with, let's see, who did I meet with? On July 14th I met with Mr. Westen, Derek Westen, Kelly Tyke and Theip Chung.
- Adam: Supervisor Farr.
- Farr: Thank you, Mr. Chair. Yesterday I had an in-office meeting with Theip, the architect, talking about the project and the MBAR process. I also had a telephone call with Miss Petrovich more specifically regarding the Montecito Community Plan policies as part of this project. And then I had a meeting in our conference room again with the architect, Theip, Kelly, Derek Westen, and both of the appellants and we discussed the project at length.
- Adam: Okay and I met with Mike Hair, Sr. and Bob Collector on July 11th here in Santa Barbara. And also my staff met again with Bob Collector and I met with Bob Collector very briefly here in the hearing room today. Both meetings occurred in the building here. And I met with attorney Derek Westen and architects Theip Chung and Kelly Tyke on 7/15 in the center of my office. Supervisor Wolf.

Wolf: Thank you, Mr. Chair. On Thursday, July 14th, in the conference room here I met with Susan Petrovich, attorney for the Hair family. Yesterday I met in the same room with Derek Westen, Kelly Tyke, Theip Chung, Steve Grabowski and Cheryl Olsten. Yesterday in the afternoon, I spoke to planner J. Ritterbeck specifically, well, I also watched a portion of the Planning Commission hearing, the Montecito Planning Commission hearing and I asked J. for an explanation regarding a statement that was made by the applicant's team about the difference in the finished lower floor. It was stated to be 20, the original home was stated to be 23 feet in height and the new height for the newer home was 22 feet, six inches, so J. and I had a conversation about that so I could better understand how that was calculated.

Adam: Okay, so now we have ten minutes for staff presentation.

Ritterbeck: Thank you, Mr. Chair, Members of the Board. My name is J. Ritterbeck. I'm the planner for the Olsten Trust Project and Appeal. The project is located within the urban area of Coastal Montecito. The lot is located within the Montecito Community Plan area and is also within the California Coastal Commission Appeals jurisdiction. The property is an ocean-front lot situated on Channel Drive across from Butterfly Beach. It is a 0.44 acre parcel. It is zoned a 1E1 residential. As discussed in the Background section of the Board Letter, this project was presented before the Montecito Board of Architectural Review on six separate occasions over an eight-month period. During this time, the architect worked with the MBAR to address their concerns and those of the neighbors. At the last of the six design-review hearings, MBAR members indicated that the project design had adequately addressed their concerns and had effectively integrated their suggestions into the project.

The project was taken before the Montecito Planning Commission for the first time on May 20, 2015 where it received numerous unfavorable comments from the Commissioners. They were largely centered on size, bulk and scale of that second story. The project was continued indefinitely to allow the applicants' design team to redesign the project and to take the revised project back to the MBAR for further design review and comment before it returned again to the MPC. A revised project was taken to the MBAR on October 12, 2015 where it received majority support from the members. Then on January 20, 2016, the project returned to the Montecito Planning Commission.

At this hearing, the Commissioners voted three to two to conceptually deny the project, continued it to the hearing date of February 17th with direction to staff to draft findings for denial. At the request of the applicant, the February hearing was continued to March 23rd to allow further changes to the project in an effort to avoid denial by the MPC. On March 23rd, the final revised project returned to the Montecito Planning Commission for review and by a vote of three to two the MPC denied the project. The denial was based largely on the MPC's concern for the near doubling of the square footage on the second story from 666 square feet to 1,252 square feet.

Also, its effect on mountain views, privacy and neighborhood compatibility. Additional concern was voiced over the extent of window glazing and its effect on light pollution, privacy and the preservation of the semi-rural residential character of the Montecito community. That denial was appealed by the applicant and is now before the Board of Supervisors for your de novo review. The applicants' proposed full demolition of the existing 3,802 square foot single-family dwelling along with its attached 520 square foot garage and its indoor pool. Subsequent to that demolition, they propose to construct a new residential project. The new single-family dwelling would be approximately 3,187 square feet in size, which is less than 10% over the maximum recommended floor area for this 0.44 acre lot.

The ground level floor of the home would be approximately 1,935 square feet and would also have a new detached garage of approximately 680 square feet and a detached cabana approximately 570 square feet in size. The second story of the new residence would be approximately 1,252 square feet in size. Additionally, the applicant is proposing an approximately 881 square foot basement. Proposed building elevations can be seen on the following slides. The south elevation, this would be as viewed from inside the new proposed wall that would front along Channel Drive. From the west, again with the garage in the back. From the north and from the east.

Adam: Supervisor Farr.

Farr: Thank you, Mr. Chair. Staff, since the findings for denial specifically talk about size, bulk and scale issues, I just wanted to verify some of the statistics on the home. In looking through the paperwork on this project going back, there was a comparison of the existing dwelling being about 3,800 square feet in total and the proposed new house being 3,465. Are those numbers still accurate or has it changed?

Ritterbeck: Mr. Chair, Supervisors, throughout the design review of the BAR and the MPC, the original project has been scaled back. The current project before you all today is 3,187 square feet.

Farr: Okay, so the existing two story dwelling, the number of 3800 square feet is valid? And are we comparing apples to apples here on square footage?

Ritterbeck: Mr. Chair, Commissioners, the staff's understanding is that the floor area of the existing home 3,802 is comparable to the 3,187 being proposed.

Farr: Okay. And because FARs have been mentioned, this says the existing one is about 31% over the maximum recommended floor area. And then before it was 19%, but now you're saying the new one is 10%?

Ritterbeck: Mr. Chair, Commissioners. Again, throughout the design review process the project has been scaled back so one of the iterations had a 3,400 square foot and had been reduced down in direct response to the MPC. I believe this final one,

the 3,187, was in response to their direction for the revised project that was supposed to go back to the BAR, so they had reduced to that size, going back to the BAR and then moved it back to the MPC and now to you.

Farr: Okay so, despite the reduction, there was not a reduction in the second story which was what specifically the Montecito Planning Commission was concerned about.

Ritterbeck: Mr. Chair, Commissioners. The last project that was reviewed by the MBAR included the size of the second story that is before you today.

Farr: Okay, but that was one of the specific concerns of the Montecito Planning Commission.

Ritterbeck: Mr. Chair, Commissioners. That's correct. The MPC was concerned about the near doubling of that second story.

Farr: Okay. Then, just a question about lighting because that's come up in lantern effects and all of that. We have policies to do with lighting but it all has to do with exterior lighting, right?

Ritterbeck: Mr. Chair, Supervisors. Yes that's correct.

Farr: We don't have any policies. We can't regulate interior lighting.

Ritterbeck: Mr. Chair, Supervisors. That, the specific policy that you're referring to is open to interpretation on that. You would have the discretion on whether lighting of structures pertains to inside or exterior only.

Farr: Okay, because I thought it was just exterior, had to be. The whole idea was light pollution and couldn't be upward directed; it had to be downward directed and minimized as much as possible.

Ritterbeck: Mr. Chair, Supervisors. That would be a standard interpretation. The examples that are given are largely the exterior street poles and some of the lighting examples that the BAR looks at are up lighting of trees, etc., so that would be consistent with your interpretation.

Farr: Okay, thank you. Thank you Mr. Chair.

Adam: Supervisor Wolf.

Wolf: Thank you Mr. Chair. Mr. Ritterbeck, there is an 881 square foot basement. In the Montecito Plan is that, or maybe throughout the County and I just don't this, is that never considered a part of the total square footage?

Ritterbeck: Mr. Chair, Supervisors. The basement area would not be included as part of the floor area if it meets the full definition of a basement, which is more than 50%

below the average grade around, so it would have to be more than half buried in order for it to be considered a basement and if it meets that definition, it is not included within the floor area.

Wolf: So you determined that it meets the definition of a basement?

Ritterbeck: Mr. Chair, Supervisor Wolf. This one is completely underground.

Wolf: I'm sorry.

Ritterbeck: This basement would be completely underground.

Wolf: Okay. And even there is a separate entrance into the basement and a bedroom; it's still not considered part of the full square footage?

Ritterbeck: Mr. Chair, Supervisors. This particular design of the basement meets the definition of a basement. Therefore it's not considered a part of the floor area.

Wolf: Okay, thank you. Is that the same definition throughout the County? I'm just curious.

Ritterbeck: Mr. Chair, Supervisors. The Montecito Community Plan and the design guidelines for Montecito are specific to basements. That's not, floor area isn't considered anywhere else in the County. Absent Summerland does have some but the standard throughout the County is that floor area is not something that is calculated for new homes.

Wolf: Okay, thank you.

Adam: Please continue.

Ritterbeck: Thank you, Mr. Chair. The appellant has submitted a statement of grounds for the appeal along with their appeal application. The statement identifies and explains nine specific issue areas that constitute the grounds for their appeal. Within the Board letter, each of these nine issue areas are identified individually and are followed by staff's response to each. To summarize for the Board for this hearing, the overarching argument of the appeal pertains to two general issue areas.

First, the claim that the evidence in the record does not support the MPC's findings for denial and second, that the proposed project had been reviewed by P&D staff and by the MBAR, both whom recommended approval and provided evidence in the record to support that approval recommendation.

Specifically, appeal issues one through seven and number nine each deal with the appellant's claim that the denial is not supported by nor based on evidence in the record. However the proposed project received a total of three public hearings before the MPC. Each iteration of the project was presented at these hearings by

the applicant and then analyzed and discussed and ultimately given further direction by the MPC to revise the proposed design or risk being denied at the final hearing. Rather than make two changes recommended by the Commission to reduce the size of that second story to no greater than what is currently there and to reduce the amount of window glazing, the applicant opted to make what the majority of the MPC concluded were insufficient changes.

As a result, findings for denial were prepared and the MPC denied the project based on a conclusion that the near doubling of the second story and its associated effects on public views, the lantern effect from the window glazing and neighborhood incompatibility were all inconsistent with the policies of the Montecito Community Plan. Since the MPC's denial, no additional changes have occurred to the project and the findings for denial are provided for the Board's de novo review as part of the Board letter, which are included as attachment one.

Appeal issue eight deals with the appellant's assertion both P&D staff and the MBAR provided substantial evidence on the record that would support approval of the project. While it is true that both P&D staff and the MBAR provided the MPC with recommendations and evidence for approval, the decision-maker with review authority for the requested CDP was the Montecito Planning Commission. As is their authority, the MPC denied the project; again due to the increased size of the proposed second story as compared to the existing home and that impact to the mountain views as viewed from Channel Drive and second, that amount of window glazing and the concerns regarding its effect on light pollution as well as maintaining the residential character of the community.

For denial of the revised project, there was presented to the MPC and is now before you on de novo, staff recommends that the Board's motion include the following: Deny the appeal Case No. 16-APL-7. That the required findings for denial of the project including the CEQA findings that are included as Exhibit 1 to the Board letter. Determine that denial of the project is exempt from CEQA pursuant to Section 15.270 of the State Guidelines for implementation of CEQA, which is specified in Exhibit 2, and deny the project de novo. Case No. 14-CDH-14.

Alternatively refer back to staff if the Board takes other than that recommended action for the appropriate findings and conditions of approval. This concludes staff's presentation.

Adam: Well done. Okay so now we're down to the appellant. Mr. Westen. You will have 15 minutes.

Westen: Good afternoon. Thank you very much. We very much appreciate the care that each of you has devoted to trying to understand the facts on this case and I am going to jump right in. MBAR, the experts in design, have looked at this six different times and concluded that **it meets the highest standards of design and all of the Community Plan**, requirements and all of the zoning requirements because

it is smaller. Supervisor Farr, it is 21% smaller than the existing house measured in accordance with the Montecito Community Plan guidelines. I'm sorry, I've been sick and my voice is still a little messed up.

It is 16 feet lower in elevation. Supervisor Wolf, it is not 16 inch higher from in height, but is lower with respect to mean sea level because we are lowering the finished floor. So it is 16 inches lower than what is there today. **It has dramatically less visible glass; about 60% less,** okay, go ahead.

Wolf: I'm sorry to interrupt. Again six because the base floor level is lower; the height from the top is actually 16 inches lower than it is currently?

Westen: Correct, because the house, the building itself is a little shorter, but then it's nestled nine inches into the ground. We're lowering it to lower impacts to the whole neighborhood.

Wolf: And there's two pieces to that second story.

Westen: We're referring to the highest piece.

Wolf: You're referring to the highest piece?

Westen: Yes, that's correct. If I say anything that is inaccurate, I want the architects to come up and correct me, but yes, we measured to the very highest part. The lower part to the left in that image is also higher because there's a pitched roof and it has clear story, so the whole thing is lower, but the highest part is 16 inches lower than what's there today.

Wolf: Thank you.

Westen: Have I answered your question? **So there is about 60% less visible glass. When I say visible glass, we're putting up a privacy wall that blocks almost the entire first floor which is the living space and has a lot of light. The second floor has only, only, 170 square feet of glass and of course, it's bedrooms and bathrooms, so it's normally going to be dark.**

The second story has been very carefully masked and stepped back and we've even notched back the right hand, the east side of the building, to improve the view for Mr. Hair, who is one of the opponents. So MBAR made the findings that this project complies with every requirement of planning and zoning. They do not count accessory buildings and in this case, you can't see it anyway. The basement is 100% underground so it has no impact on the neighborhood.

Staff recommended three pages of findings of approval. I won't go over them in detail, but we believe the Planning Commission should have adopted these and we are going to ask that you adopt them. Accuracy is really important. We put up story poles; we asked that a civil engineer certify that the story poles are accurate; and then we prepared photo realistic simulations that show exactly what

this building will look like when it is built. It's as if we built it and then went out and took a photograph. We have tried to be sensitive to the neighbors; we have tried to be very sensitive to public views of the mountains, and I want to discuss that because to me, that is the most important issues.

So this image shows the house straight on and you can see these are the story poles and they go up right here and over, and then this eastern part of the house is being removed and stepped back. With all respect, no one can say that this proposed house interferes with mountain views from this location because the only thing that's behind it is existing vegetation. None of those tall trees are on the property.

Planning Commission was very concerned about Channel Drive, so we took multiple photos from Channel Drive. We've given you a brochure that shows exactly where this photo is taken. What you see right here is the actual story poles highlighted in green so you can make them out; then it's a little bit lower right here and this is the back of the second story, completely in front of trees that are between the project and the mountains. I do not believe that any fair-minded person can say that this second story addition has any impact at all on mountain views.

This shows that in fact, we are improving mountain views because this yellow line shows the chimneys that are there today that are being removed and Supervisor Farr, this little gap between the green line and the existing one is because we are lowering the ridge that exists today down to 16 inches lower. So in our view, this improves public views of the mountains, not decreases.

Then moving straight ahead, you can see this is the massing of the house of the second story a little bit to the west and then we are removing this little notch to the east side specifically to improve the view from the Hair who live to the northeast. No one can say that the proposed house which is shown in green impacts mountain views at all.

Then one last one. This is now from the west. Again you can see the story poles. I do not believe that there is any credible evidence that this has any impact on mountain views and these are photorealistic, accurate images. There is no question that these are accurate. No question that there is zero impact.

Now the existing home, which I personally don't find particularly attractive and certain is obtrusive without any privacy wall bright white has been there for about 20 years. It was built in 1994. Two-story homes are allowed on Channel Drive. They were allowed when this was built; they are allowed today. In fact, the Montecito Planning Commission has approved two other two-story homes within the last 18 months or so. One of them, a complete tear down that did not have a second-story at all, and it was improved and the other one was a complete ground up building. Nothing was there; Planning Commission approved a second story, both of them within a few addresses of this property.

Two neighbors have raised objections and you will hear from them and their attorneys and agents and architects and contractors and friends. When they bought their homes, this home was already there. It's been there for 20 years, ever since. Now, of course they will see the replacement home. There's no question about that, but we think we have improved the view from their property and I will show you why I say that.

So this first image is taken from Michael Hairs' patio during a public viewing. The house that you see here in the foreground is the existing house and of course he has a wonderful ocean view, both to the east and the west. It's beautiful. This is the proposed house. This is existing; this is proposed. This is photo realistic accurate with the landscaping included and I'm going to show you an over/under photo. I defy any fair-minded person to say that the lower proposed design has any meaningful impact on the Hair's to the north. My own view is that it's much better because they don't look at the sea of red tiles and the landscaping very appropriately blends the house in.

Adam: Stop the clock for just a second.

Lavagnino: I know it's always tough for staff because a lot of this, when I got into this I went through these files. It really comes down to which renderings you feel are more appropriate. Is there any comment that you can make about the accuracy or validity of the charts that we're looking at right now?

Ritterbeck: Chair, Supervisors. As the appellant, the applicant appellant's team has indicated their drawings and renderings are based upon the story poles which have an engineering certification. The renderings and illustrations provided by opposition that are included in your Board letter, staff can neither validate nor discredit those because we don't know how they were generated. There are distinct differences and that would be your discretion to take into consideration.

Wolf: Maybe this is a question for Mr. Ghizzoni or staff; in this photo we're dealing with private views rather than the, say, the view from Channel Drive looking into the mountains. To what extent does Montecito Community Plan look at private views because I know for instance in the _____ Community Plan there is not much significance given to private views? So can you explain that?

Ritterbeck: Mr. Chair, Supervisors, the Montecito Community Plan policies specifically address public views although they're within the text of the Montecito Plan. There is consideration given to private views as well and that is part of the general good neighbor policies that you want to consider them and BAR does consider them but they are not protected by policy as public views are.

Wolf: Okay, thank you.

Adam: Mr. Ghizzoni?

Ghizzoni: Chairman, Supervisors, I'd just like to add to that, that I agree with the summary but I would say that within the Montecito Community Plan there is a goal that states to the maximum extent feasible private views of the mountains and oceans are to be protected. That is a goal when we get down to action there is a discussion about addressing that within the architectural guidelines. Including private views. Our guidelines are not binding instructions are something that the BAR works within and one of the guidelines as to private views talks about taking into account the impact upon views from neighboring sites it doesn't specify public or private. So there is discussion as Mr. Ritterbeck summarized in the guidelines.

Adam: Mr. Westen?

Westen: I'm glad you asked the question Supervisor Wolf, because it gives me a chance to talk about the design. We have stepped back the front portion. So do you see this brown roof? That is the closest part to the ocean then there is this notch which helps the Hair's view. This is the massing the rest of the massing of the second story. Including this low piece at the back. The massing of course, the Planning Commission's concern was with the raw number of the square footage of the second floor. What they ignored is the massing and here is the way to understand that if we remove this entire bedroom some 400 sq. feet it would make no difference what so ever to the view of the Hair's or Sturgess' because it was designed to not impact them.

In my judgment it is not rational simply to a square footage number without looking at the actual impacts on the site. **One has to look at the whole design and this is lower, that is really important, narrower, less massive, reduced FAR and the massing that is of concern does not affect anyone's view if we take this away it makes no difference to any public or private view that is crucial.** To be really honest I think the Planning Commission got hung up on a number rather than looking at the design. And as Mr. Ghizzoni said, that's what we defer to MBAR for. And that is why they had these hearings to make sure that all public and private views were appropriately respected. Now I want to quickly show you, one of you, Supervisor Wolf asked if we had a rendering from the Sturgess' house and I'll admit that yesterday we did not so this is not a photo realistic as the others because the house looks wider and blocker than in fact it is, but the massing is accurate. And what you'll see, you know I think we are missing maybe one slide, oh I'm sorry I see it right there do you see, do you see this yellow line?

That is the existing house and here it goes across it is going to be removed, this chimney is going to be removed and this part is lower than what is there today. So there is a little bit of mass right in here that is not there now but this is gone, that is gone, that's gone, and this is all lower **and this piece over here is gone. So in our view this at least is as good for the Sturgess' as what they have today and we think a somewhat improved.** And I want to emphasis that the landscaping we are proposing is here on this rendering. This is what they will actually see, the way it is planned you can talk to the landscape architecture here, landscaping

doesn't even reach the top of the house and certainly does not impede with his view. We have tried to be very sensitive; we proposed a flat roof to not block his view. He said he didn't want to look at a flat roof so we landscaped it.

Then he expressed a concern that would be used as a party space so we removed the access we now can only get up there with a ladder, so we are really trying to accommodate everything we can. And **we have even as some of you know offered him a view restriction to make sure that landscaping does not interfere with his view.** To be honest the Planning Commission did the one thing that it cannot do, the one thing it cannot do it stated what the facts were and then it adopted findings to the contrary. A majority of the Commissioners, four of them everyone except Commissioner Brown stated that they were not concerned about the impact of public views; they were not concerned about the lighting. And then they just adopted findings for denial and that is what the findings rely on that is the only thing they can do and to be honest that discrepancy as alone is enough to justify the appeal. So, it is very important to take just a few minutes.

Adam: Stop. Stop the clock please. Supervisor Farr.

Farr: Thank you Mr. Chair. I'm sorry to interrupt you Mr. Westen. I have a question for Staff. The question of landscaping has come up here and I am sure it will come up in the next presentation. So, I know as a project goes through the process that landscape plans are often a part of that and approved, but how far has the county gone or could the County go in looking at what those landscape plans I mean ten years down the road? Particularly when we start to get into these issues of private views, or even public views and the ability for a structure to be built to a certain height but that landscaping, you know will obviously grow over time.

Ritterbeck: Mr. Chair, Supervisors, during the normal design review for the BAR's during final review they look at landscape plans and they approve specifically landscaping and lighting plans. On occasion they request that those plans those plans be drawn up early so that they can get a better understanding during the conceptual and preliminary reviews the applicants during the process of this have developed a pretty detailed landscape plan earlier than sometimes is typical for projects but the question of the ability to dictate how high trees are and the maintenance of those is something that the decision makers have authority, you can as the Board condition add conditions or give directions to the BAR to consider certain direction as well as add conditions or specifications as part as their final review so landscaping and the original instillation as well as ongoing maintenance is part of the permit. The conditions of approval can be as detailed as you wish and can add criteria as you wish.

Farr: Okay, so the MBAR can say, you know we don't want a tree that grows over at its max height to a certain number of feet. For example or hedge or something like that.

Ritterbeck: Mr. Chair, Supervisors, on occasion the MBAR gets very specific on heights if given the direction by the Board to do that on this project I'm sure that would be taken into consideration or if you add it as a specific condition of approval it then is locked into the permit and if it is not adhered to that would actually be a zoning violation.

Farr: Okay, thank you.

Westen: Although not part of our presentation, a landscape consultant is here, Supervisor Farr. We are there is no way to sugar coat this. We are really offended, professionally and personally by the misrepresentations the opponents have made. I do not have time to go over all of them but I will show you two very quickly. This is a photograph of the actual story poles, the poles are there but we have highlighted them in red so you can see them. This is what the applicants, the opponents say were building. This is reality, this is their image. And we have now superimposed the actual story poles on their blocky white image. And if you, so it is obvious that this is higher, and further to the right and blocky and whiter than reality. It is simply just plain false. And it is worse than that because if you look in this prior photo, this is their photo not ours.

You'll see you can barely see the first story at all, because it is hidden by hedges. But in there photo simulation the whole first story shows and the reason is, this image, can you see it, it's just cut out with a bare scissors and pasted on top. The image is five to ten feet higher than reality. You don't have to be a Photoshop expert to know that because if it were accurate you couldn't see the first floor at all because you can't see it today and the new first floor, Supervisor Wolf is lower, it is lower then what's there today. This is a photo from Mr. Hair's driveway and you will notice this palm tree, it's a really big beautiful palm tree in the distance here is the existing residence. Between this palm tree and the residence is the Hair's tennis court. So this is what we are looking at, this palm tree is right there, see it?

Then there's the driveway there's the tennis court, here's our existing house, this is the neighbors and this is what they say the proposed house is going to look like and watch the palm tree, it disappears behind the house, some two to three hundred feet away, making it look looming and of course again it's just cut out. If you look at the earlier one you can see a nice little natural hedge, see it right there and now there's a straight line because they have just used Photoshop scissors to paste this image, which doesn't look like the house anyway. In the wrong place and in front of the palm tree which makes it look ridiculous and the reason it looks ridiculous is that it's not true. That's a foreground tree that's been moved to the background. This is the evidence that they show to the planning commission, this is evidence that they put on a poster on Channel Drive to upset the community. Polarizing the community misleading the neighbors, misleading the planning Commission, it is wrong.

It's just plain not honest and there's a rule in law that if a witness says something to you that is not true, you are entitled to discount everything they say. I'm going to skip over slides on lighting because time is so short and I promised the Chair that I would honor the time, if you have any questions please ask, what we are doing is, we are eliminating all of the outdoor lighting which is actually the problem, you can see it right here and putting up a privacy wall, putting up landscaping and the lighting of the bedroom upstairs is all indirect subdued lighting. Keep in mind the three of the Commissioners, a majority would have approved a second story, the only concern is the size but the extra square footage is not visible to anyone, it has no meaningful impact, so we urge you to do what the Planning Commission should have done. Normally a project like this has to be continued for findings of approval, you already have three pages of findings of approval and we urge you to adopt them. So I didn't go over to much Supervisor Adam thank you.

Adam: Very nice. Thank you.

Westen: We would be very happy to answer questions. We have architects here, we have a consultant of a, I mean a represented from _____ the landscape architect and the owners would like to introduce themselves, either now, just one minute or in public comment.

Adam: Let's do public comment; let's stay with the schedule here and...

Westen: And would you, I did go one minute longer then I hoped, would you give one minute to Mr. Grabowski and Cheryl Olston to introduce themselves. No substance of comments, the owners.

Adam: [Inaudible]

Westen: _____ speakers...

Adam: Without a speakers form?

Westen: No I said if you would like we will put them in a speakers form.

Adam: Well they can do that during public comment.

Westen: Thank you.

Adam: Yup, I think it's Miss Petrovich's turn are you, you representing the applicant?

Petrovich: Thank you Mr. Chair, I am and we have some speaker slips that we tried to put in order so we could move this quickly, we got a power point, but were not, we are representing neighbors. So there is a group of us but there is a whole lot of...

Adam: Well I don't have a name on my schedule, who's the applicant?

Petrovich: Oh the appellant is the applicant.

Adam: Nope.

Petrovich: Yeah the applicant, the opponents are the neighbors, the appellant...

Adam: Okay I'm following the script that I have here. Did you guys get this turned around?

Ritterbeck: Mr. Chair no, the script is correct the applicant is also appellant. Any opposition would be subject to standard public comment...

Petrovich: Right.

Ritterbeck: Individually each one would have whatever time you, allot to them.

Adam: I don't think I'm smart enough to do this.

Petrovich: Mr. Chair, I would be speaking as a member of the public as would other...

Adam: Okay let me have a moment with Mr. Ghizzoni. [Brief break in hearing] Yes I am. Alright so we are back in session and apparently I am smart enough to do this stuff. Thank you.

Speaker: Mr. Chair is that headed to a vote?

Adam: No, it's going to be unanimous in a minute. Dr. Russell is going to save me here.

Russell: Yeah. Mr. Chair the script that you have has the applicant and the appellant, each having a separate presentation in this case, the applicant is the appellant and so there is not an applicant followed by an appellant or an appellant followed by an applicant presentation so effectively now we are moving into public comment and you have the discretion to give the speakers whatever amount of time you feel is appropriate.

Adam: Okay, thank you very much.

Russell: Sorry.

Adam: Mr. Allen how many speaker slips do we have?

Allen: Approximately 27.

Adam: 27 okay well we will go with the two minutes....

Allen: Are we going to continue to accept slips?

Adam: No, no we are not going to, once public comment starts we are going to close it, everybody knows that they're here. So if you wanted to put in a speaker slip,

quickly put one in if that's what you're going to do and if that's what you're going to do and then if we don't have ten more of them then we don't go down to a minute and a half. Okay and then following back on the good part, I assume of the hearing schedule here Mr. Westen will have another five minutes after public comment and then staff for wrap up and then it will be back to the board.

Allen: Mr. Chair?

Adam: Yes sir.

Allen: This is kind of a confusing one, its different then what its normally laid out but I'm just wondering since although we do have 27 speakers, I think Ms. Petrovich representing majority of those or kind of the voice of those and has a presentation. Are we going to allow her extra time to make that presentation or...

Adam: Well technically she's public comment, I mean if a whole bunch of people want to give up there speaker slip, I mean how long are we going to be here? I don't...

Russell: Chair, at the risk of the glass being half empty and say that, if we were to start a practice of ceding over time, you might at some point reject that and that the requirement for public comment is a fair distribution so generally we think the cleanest is to give a set amount of time out there per person and not give one group or one part of a group more time then another.

Adam: Okay well two minutes it is.

Wolf: Not to confuse things anymore, except I would like to ask Mr. Westen to come back because I want to ask you a question that maybe the other folks might want to comment on. Can you go back to your slides; it was the slide where you showed, it was kind of hovering photo of the current house vs. the new house with the tennis court on the side.

Westen: So, so I reached for the clicker and I missed the key word. Would you tell me again the photo?

Wolf: It's this photo right here.

Westen: Yes. _____ which one you mean and why don't you stand next to me. I will do my best to answer but...

Wolf: Because what has occurred to me, I was just, as you're getting this, is that the first floor in the new home is about 1,000 square feet less than the old home. **So I was trying to figure out where that reduction is and if you look at this photo, it looks like it's to the right, like right behind the swimming pool. So in essence it seems to me that if you're on Channel Drive and you're looking north, that you might actually have a better view of the mountains because you've eliminated a part of that west part of the home, the first floor. Do you see what I'm saying?**

Westen: I believe so; I have Kelly Tyke standing right next to me, who worked on the design...

Wolf: Do you understand what I'm asking Kelly?

Westen: I believe so, I think...

Wolf: I'm just looking at the first floor. Yeah.

Tyke: Can we go back to the last slide?

Westen: Okay.

Tyke: **So this is first floor the roof of the first floor and this is our accessory building, so the footprint of the house is this.**

Wolf: So that the roof of the first floor?

Tyke: This right here is the roof of the first floor, which is approximately five feet narrower than the existing house.

Wolf: So what are those brown things in the corner?

Tyke: This right here?

Wolf: Uh-huh

Tyke: That's landscaping on top of the roof. It's a green...

Wolf: Okay that's why I was confused I thought it was the ground floor. Okay thank you.

Adam: Okay Mr. Allen let's start calling public comment.

Allen: _____ with Michael Hair to be followed by Serena Hair.

Hair: Chairman Adam, esteemed Supervisors my name is Michael Hair we live at 1169 Hill Road, immediately adjacent to the proposed enlarged second story new construction. I had a prepared talk but I think since there has been some question about the impeachment of our drawings and authenticity I would like to address that. This is totally not true, in fact it was verified by the Planning Commission numerous times, they looked at these pictures. On one occasion we even certified out own story poles and certified the location of the sight lines.

The mountain views are a little bit tricky because as you get closer to the home, what happens is the house begins to obstruct the mountain views much more and if you notice those pictures are taken at a high level, maybe like on stilts or who knows what and it looks like there is no obscuring of the mountain views but that in fact is not true, there is obscuring and common sense just tells me that if you

double the second story and the second story in front is 14 feet wider that there's going to be some obstruction of the mountain views. It just seems like they can twist and turn but they doubled the size of the second story and then subtracted some of that out of the first story. In summary, common sense would lead us to agree that doubling the size of the second story will lead to a loss of both public and private views and private views are important if not just for our home but a number of neighbors in our area. When this occurs the proposed construction is contrary to your Montecito Community Plan and that should be denied so I thank your time.

Allen: Serena Hair, our next speaker. Will be followed by Jonathan Weiss.

Hair: Hello Mr. Chairman and Honorable Supervisors, I'm in the sake of time, we have a lot of people in the audience who are here to support our side of the story and instead of asking them all to speak, which I'm sure you would not appreciate. I would like to ask them to stand at this time. Thank you. My name is Serena Hair, our home is at 1169 Hill Road, it's a family home for a large family, we all spend a good amount of time there. Well I realize public views are probably a greater importance to you the Montecito Community Planned Policy goals also take into serious consideration and I quote "neighborhood compatibility, residential privacy, public views in the maximum extent possible, private views of the mountains and ocean" our easterly view corridor and southerly view corridor are directly impacted by the doubling of the second story mass and its doubling affects both public and private views.

The homeowners to the immediate west of the project at 1159 Channel Drive were denied a second story. In a letter dated and received on May 18th, 2015 to the Montecito Planning Commission they stated and I quote "we attempted many times in the past with no success to build a two story home, adding a few square feet of living space. After 17 years of failed attempts we ended up accepting the condition of renovating existing single story structure on our existing building pad. The reason given at the time for not allowing a two story home at our location was to allow for the continued public enjoyment of mountain views to Channel Drive and the Pacific Ocean". Additionally the previous owners of the applicants' home, Mr. and Mrs. Chase, were strictly limited to the current square footage of the existing second story when they remodeled in 1994. They weren't happy with the restriction but they accepted it nonetheless. If the doubling of the second story is allowed for the applicants, a new prescience will be set and numerous small cottage lots will request second story homes. We would be in a favor of a plan for new homes, should the size of the second story not implead on the Coastal Commission.

Adam: I'm sorry your time's up, thanks.

Hair: Thank you.

Clerk: Jonathan Weiss to be followed by David Cornwall.

Cornwall: Thank you Chairman Adam, members of the Board of Supervisors; my name is Dave Cornwall, 1126 Hill Road, Montecito. For ten years I lived directly north, behind the applicant's home and I can tell you from multiple directions the mass that is being created by this twice as large second story is going to be very much effect the public views from Channel Drive, as well as private views from my ex house and our Stergios new home, as well as the neighbor to the West, Mr. Steel. Throughout this whole process, there have been minimal little changes made to the project and again with our time being cut down I can just tell you that over and over again the house and the designs have been turned down by both the Planning Commission and also the Montecito Land Committee voted 7-0 to uphold the three denials by the Planning Commission and the Montecito Association Board also turned this down multiple times.

The house is substantially larger in mass for the small lot that it is and depending upon the angle which you look, not directly behind from the very middle of 1159 Hill Road behind the applicant's house but from the angles, the extra mass of the little second story that they say they dropped down that would affect nobody, only does not affect Mr. Hair not anybody else, so I can tell you that the majority of people who have looked at this, other than MBAR who virtually ignored all their own planning design guidelines, not one, not two but virtually all of them. I please hope that you'll uphold our appeal and support the Planning Commission and no project should be approved if non-compliant with the comprehensive general plan of which the Montecito general plan is part of and I can tell you that the house, Mr. _____ house that was denied, the minute, if you would have passed this tomorrow morning he'll be in with his second story because he built his extent, his single family...

Adam: Thank you, thank you very much.

Cornwall: ...with every intention going up. Thank you.

Allen: Edwin Quackenbush, to be followed by Will Gustafson.

Adam: Supervisor Farr.

Ms. Farr: Thank you Mr. Chair, staff, Mr. Westen indicated that several houses had been approved in the last couple of years, with second stories, including at least one that was in this neighborhood. Is that accurate?

Ritterbeck: Mr. Chair, Supervisor Farr, I can think of certainly one, in recent history, in between the project parcel and the Biltmore, the _____ Pool Project was approved in the last year for a two-story residence, and that's currently under construction. I can't verify others, but just haven't done that, done that review to confirm or, or not, the answer to that question.

Farr: Okay, so. The Montecito Community Plan obviously doesn't ban second stories. Does it have any policies that to do with, how big they can be; or how much of a percentage of the whole square footage, or any kind of ratio like that?

Ritterbeck: Mr. Chair, Supervisor Farr, they, in the ordinance has a 25-foot height line, height limit, which can go up to 28-feet when you have a pitched roof, in this case, it's a flat roof. So they'd be subject to the 25-foot height limit, from existing grade, which they comply with, and then the guidelines speak to, when you're working with second stories to pull them in from the edges of the buildings to provide sort of the layering effect, or sort of the wedding cake effect, when you work with second stories, but I don't believe there's any language as to, square-footages of second stories, relative to the first floor.

Farr: Okay. Thank you, thank you, Mr. Chair.

Adam: You're on.

Quackenbush: Thank you. My name is Ned Quackenbush, I've lived at 1120 Hill Road for, since 1980, and I walk along Channel Drive every day to go to my health club and, so I've noticed this project from the time the story poles went up, and it's, as it's just, the beauty of Channel Drive, for Montecito, is the proximity to ocean, on one side, and the mountain views, on the landward side. And, the doubling of the size of the second story of this house is going to affect those views and will encourage others to put second stories when they can. And so, I wish and hope that you will support the Planning Commission's denial, after three separate hearings, of this project. The views are precious and this is like Shoreline Drive up on the mesa, where the houses have gotten mansionized because of property values are so great, as they front the park. And it's, as just a member of the public, I cherish those mountain views and don't wanna see them, deteriorated by larger construction projects on the road. Thank you.

Allen: Will Gustafson, to be followed by Susan Petrovich.

Gustafson: Chairman Adam and esteemed supervisors, my name is Will Gustafson, I've been a resident of Santa Barbara, Montecito now for over 28 years, 16 to the last 18 years at our home, on East Mountain Drive. My wife and I were privileged to live in 1154 for the past two years and cherished our time there, grateful to Steven and Cheryl for that. During our time there we experienced, first-hand, every time those story poles went up. Public comments, we had people tack notes on our gate and our mailbox, confront my wife and I when we came in and out, asking each and every time, what's going on? They were very open with us once they found out we were not the applicant, or the owner. I've been in the real estate development business for over forty years.

I understand the process clearly. I'm pro-development. I admire Theip Chung's work. I think he's a genius. I actually love his work. I just believe that based on all of the comments we heard from the community, that he's been charge with an impossible task. He's trying to make 10-pounds look like 5-pounds, re-design after re-design. I think that the experts, your Planning Commissioners were out each, and every time those story poles, were put up. They made the right decision denying this project. They, there is no injustice here. There's no wrong to be

righted. The Planning Commission didn't create any errors. This is just the wrong house, on the wrong lot. Thank you very much.

Allen: Susan Petrovich, followed by Mindy Wolf.

Petrovich: Could you put up my PowerPoint, please? It's the one that looks like, this. Sorry, technical difficulties. Can I have that when you are finished? My name is Susan Petrovich. I'm going to start with a brief introduction, and that is this project is a demolition and a replacement. It's an opportunity to replace the existing, pre-Community Plan house, with a better one that complies with the Montecito Community Plan. The proposed project makes things worse. This issue isn't the comparison to the existing, it is treating this as a vacant lot. You have two options, will you enforce and preserve the Montecito Community Plan, or will you establish a precedent that waives the Community Plan compliance for these applicants? So here's the wording that many people have referred to. It says very clearly, this is the very first land use goal, protect public views and to the maximum extent feasible, private views to the mountain and ocean. Here's the existing residence. This is taken from the Sturgess's right behind the house with 14 additional feet of width to the second story. Here's the landscaping. The landscaping they proposed is full-sized enormous trees: oaks, sycamores, bay laurels and the like. And here's another view from the very corner of the Hair property. This is the latest project plan. Those white slides that Derek showed you, those are earlier iterations of this plan.

It has changed so much, but as you can see very clearly, the mountain views will be obstructed with this. It just cannot be denied. There's the line. Next goal, or yeah, next goal, ensure that development doesn't impinge on the roadway. As others have noted, Channel Drive is special. The houses in the front row offer an opportunity to enhance Channel Drive or loom over it. The existing house already looms over it. The proposed house will just make it worse. Policies, new structures shall be designed to minimize their visibility from the public road. That's a shall, that's mandatory. This house says, look at me, and in fact it shouts that. And the proposed landscaping just increases the problem. Now there's been a lot of casting dispersions on our photographs. And they did the same thing in the Planning Commission. And it's pointed out by Mr. Hair, their photographs are flawed.

Adam: You're out of time.

Petrovich: This is a fifteen second, sixteen. Oh you interrupted me.

Adam: That's over. No, that's over. It's going to...

Allen: It counts...

Petrovich: I'm sorry. Could I just show you these, because these were...

Adam: No I'm sorry.

Petrovich: ... Commissioner Brown's photos.

Adam: Sorry.

Petrovich: Thank you.

Adam: Mindy Wolf and then we're going to hear from Sophie Calvin.

Wolf: One second. I'll admit I prepared for three minutes, I thought that's what we were getting so I will try to be quick. My name is Mindy Wolf. I represent legal counsel for the Sturgesses, owners of 1159 Hill Road, immediately behind the project. This is an image we created. This home, this single story home was built in 1975. This is what the view would have been over. And the reason why that's significant, as Susan pointed out, this is a complete demo and restart.

The white line, 20 years after this was approved, that was approved. The next year, Montecito guidelines and the update to the Community Plan went into place. So that second story went in before the guidelines protecting mountain and ocean views went in. Here's the plan and here's the new one, 14 feet wider. The concern in the guidelines and the Community Plan was to preserve the understated nature of Montecito, protect mountain and ocean views. The Community Plan quote "concerns that the Montecito area is experiencing an erosion of quality of life and community character." Now in 2016 the applicants are proposing this 14 foot wider home and I'm going to get to it. They're proposing a complete tear down. There's no legal precedent, there's no basis in the law for them to be entitled to a second story whatsoever. There were compromises proposed, saying keep it at the same square footage; applicant did not reduce their square footage one square inch. They did not reduce the windows one square inch after the planning commission gave them direct instruction.

Not a single foot, not a single inch reduced. Here is a list of the neighbors supporting this denial, supporting your denial today: 11 immediate neighbors. Here's where they're located. This is who wants you to say no today to this project. In addition, we did inform the public of what was happening. We gathered 53 community members concerned about this project. Here's again the Sturgess view, 14 feet wider, the landscaping. There are only two second stories on Channel Drive, they have stars on them. There are three on Hill Road, behind this project, but it's regardless because if they build this and landscape it we won't see the ocean anyway. Here are reasons why to deny the appeal. It fails to meet the Montecito Community Plan of to the maximum extent feasible, protecting private and mountain views. The Planning Commission are problem solvers, they proposed compromises and asked for specific changes and unfortunately this applicant failed to reduce it a single square foot in square footage and failed to reduce it a single square inch. Thank you.

Adam: Sophie Calvin to be followed by Bill Spiewak.

Calvin: Good afternoon Chair Adam and supervisors my name is Sophie Calvin, I'm an agent for the Hairs. Oh sorry. Sorry these aren't my slides actually. There. This chart shows the square footage of the existing versus proposed. The proposed project is 10% over guidelines, but when you look at the additional square footage a detached two car garage, a detached cabana and a habitable basement, which is not included in the Montecito guidelines, but one should look at the accumulative development on this small, non-conforming parcel. The total proposed development is 940 square feet more than what is there now. The mass scale and bulk of this project is excessive.

Mr. Westen states the neighbors are objecting to this house that are "significantly smaller, lower and more clearly masked." The Hairs are not objecting to the second story, they are objecting to the increase of more than doubling the second floor area and increasing the width of the house along Channel Drive, which blocks more ocean views. Compare the existing house to the proposed. The architect is increasing the first floor south facing glass by 82% and the second floor glass area by 23%. County policy states lighting of structures, roads and property shall be minimized. They are increasing the glass on the south not minimizing it. The proposed project, the proposed second story is 14 feet wider than existing. Since the existing second story blocks current mountain views from Channel Drive, increasing the width of the second story will block more. Mr. Westen's letter to the Board states "it is only a two bedroom home." This is a three bedroom home, the third bedroom is in the basement. His letter also states "the proposed home complies with every single element of the Community Plan." Susan and Mindy clearly stated Community Plan policies that had been violated. Please do not be deceived...

Adam: Sophie, you're out of time.

Calvin: If you have any questions regarding the CAD drawing, I was the one who took those if you have questions I'd be happy to answer those for you.

Allen: Bill Spiewak and followed by, is it Ann Strickland?

Strickland: Amie.

Allen: Amie Strickland after Bill.

Spiewak: Mr. Chair, Supervisors, my name is Bill Spiewak. I'm a consulting arborist. I was asked to look at this project and see if the landscape would complement or conflict with the Montecito general plan. And I looked at the trees that were proposed and among them are some very large trees, including Coast Live Oak and California Sycamore, which get up from like 50 to 70 feet tall if not even taller sometimes, and spread 40 to 70 feet. So they're large trees. Mr. Westen showed that one view with two landscapes, before and after, and showed and the building I think is 22 ½ feet tall.

There are six trees proposed for the back of the lot, the north side of the lot, sycamores and oaks. They have the potential to grow 50 to 70 feet tall and spread a total of seven times 40, 50, 60 feet, which is almost 400 feet. This is an 80 foot wide lot with seven, six large trees across the back. Now granted they'll be overlapped probably to some degree, but still the potential to completely cut off the view and conflict with the Montecito Community Plan is definitely there. The photos, it's interesting, the photos are seemed to be conflictual among people, but the trees don't lie. They get 50 to 70 feet tall and grow easily as wide. And if that's a 22 ½ foot house those trees are over the top no doubt about it. Thank you.

Lavagnino: Excuse me, I have a question for the arborist. Is it Bill, I'm sorry?

Spiewak: Yes sir.

Lavagnino: Hi. So this is something that interests me because I can see how this could be a problem. So how long would it take an oak to get to the height that you're talking about?

Spiewak: I would say that you could, depending on the size of the tree that was put in and the care that it received, it's not unusual for trees to grow anywhere from 1.5-4 feet a year. So if you do the math, 50 feet could be 25 years or it could be 12 years, well plus the original size. I would assume they'd probably put large trees in to start, which would probably be eight to 12 feet tall, if not bigger.

Lavagnino: Okay so is there a way to somehow, you know, if you came in and said okay we're only going to make them, they're only going to be allowed to be 15 feet or 20 feet or whatever we put as a requirement. Could you prune them, could you cut them to match that?

Spiewak: Trees can be pruned to fit any size and shape, but what happens is when you take a tree that genetically wants to be 50 to 70 feet tall and you continually try to keep it down at 25 or 20, it stimulates a lot of vigorous shoots and it becomes now a big hedge, so that is possible, but it requires regular maintenance, at least once a year, sometimes twice depending on the species. And oaks definitely and sycamores are fast growing trees.

Lavagnino: Would you have, would you be able to work on a recommendation that would find a tree that's maybe more easily maintained that's not a 70 foot tree?

Spiewak: Probably. The landscape architect has done a nice job and doing his job and creating a landscape that compliments height, softens the architecture, but it's still massive. So that's what you're going to have: size, bulk and scale with trees.

Speaker: Okay, thank you.

Allen: Amie Strickland to be followed by Mary is it Hollick?

Strickland: Hello Chair Adam and Supervisors. I grew up here in the Santa Barbara and Montecito area and I ask you today to remain in opposition to this project. It doesn't fit the character of this subject neighborhood and as a longtime resident and supporter of our quaint and unique Santa Barbara, we fear this type of project to be a gateway of the type of build and scale of homes that we wish to keep at bay in order to protect the landscape we all enjoy. Thank you.

Adam: Mary Hollick to be followed by Robert Collector.

Hollick: Thank you Chairman and trusted supervisors. I just moved here eight months ago from Dallas, Texas. I am extraordinarily inspired by the beauty that is Montecito and Santa Barbara. There's nothing like Channel Drive. I walk it every day, it gives me goosebumps just to talk about it here. I asked not that you focus on some of the previous arguments, the nine inch argument, whether less is more. That doesn't concern me. What concerns me as a new community member here is the grand aesthetic. And you all are the trusted gatekeepers of that aesthetic for all of us. So I ask that you please deny this appeal. Thank you.

Allen: Robert Collector to be followed by Dana Sachey.

Collector: Esteemed Supervisors, I'm going to talk quickly, respond first to the defamation for Mr. Westen, about our Planning Commission, about our neighbors, I want to talk as somebody who's been President of the Montecito Association and leadership from most of a decade and Chair of Land Use for multiple times. Naomi Schwartz tasked me with creating the qualifications for MBAR and for the MPC. What she intended at least, what she told me, was what you wanted was that our Planning Commission, our neighbors, our residents would be stewards of the plan, not staff, but neighbors who lived here, who walked in the community. These NPC members worked many, many, many hours as stewards, looking at the site, living here, studying everything. It offends me when anybody would say that characterize their decisions the way that Mr. Westen did. They agonized over this, but they know better than anyone who is in local government, because they are neighbors. With MBAR, understand something, MBAR frequently does not consider the site.

The way that the plan is formulated is that homes are compatible with the sites, that's why you can have a two-story home if it's compatible with the site, doesn't create impacts. And Supervisor Farr, the two story house that you mentioned, went up because it was approved by a previous planning commission. This Planning Commission wouldn't have approved it, but when you have a site that is a substandard as this, there's no way that this home fits. It just simply does not fit on the site. And finally Mr. Westen may get up and make a comment about the Montecito Association's letter. I think I'm probably better equipped than he to talk about the MA. The MA never supported this project at all and they wrote a letter that said they want you to take into consideration the Planning Commission, that's the way that we work, we hope that you respect it. Thank you.

Allen: Dana Sachey to be followed by Arlyn Goldsby.

Sachey: Good afternoon Mr. Chair and Board. I am speaking in support of the project and I'm a long time resident of both Montecito and Santa Barbara. I personally was involved with the building of five residences on Hill Road and I'm very familiar with the fabric of the Channel Drive and Hill Road neighborhoods. As Mr. Westen stated, for years I felt the current residences is a sea of red tile roof and lacks landscaping and needs to be redesigned. I've become familiar with the proposed design and have studied the drawings and I feel it greatly improves the neighborhood. I cannot understand the issue of blocking the mountain views and I feel that the owner and architect have gone to great lengths to prove that point. The Montecito Community Plan is extremely important and I believe this project complies with the Community Plan and I believe staff's original findings for approval clearly state that. I urge your support of this appeal. Thank you very much.

Allen: Arlyn Goldsby to be followed by David Lacy.

Goldsby: Hello. I'm Arlyn Goldsby, excuse me. I've been with this community for 45 years and this gorgeous, extraordinary setting. I've been in business on Coast Village Road for about 18 years and very much involved with the Biltmore Hotel, so I spent a lot of time on Channel Drive because we had a latrine in the lobby for our store and so I know very, very well the aesthetics. I happen to be a very visual person and I'm not going into anything new because you've heard enough numbers and statistics and I don't know that. I'm a very emotional about this because I went through this with my husband, who is now diseased for almost two and a half years, trying to get our home built, which really did not exceed anybody's problems with their view.

And I really think that a lot of the neighbors and people that are involved with this do not quite understand how much time, effort has been put into this project, which happens to be extraordinary. I mean I've seen it, I've seen the evolution of it, and I really feel very strongly that this is just people who have nothing better to do but to figure their view is being blocked and I really have been through it I know what it takes. It's a lot of frustration, it's a lot of money and it's a lot of time, including yours. So certainly try to support this, I'm sure you will.

Allen: David Lacy to be followed by Bernie Corea.

Lacy: Good afternoon Chair, members of the Board. My name is David Lacy and I am a real estate broker with Berkshire Hathaway on Coast Village Road. I live in Montecito on Hot Springs Road and I'm down on Channel Islands frequently. It's my neighborhood as well. Stephen Colbert on his show coined a term that I just think is very applicable to this discussion. It was truthiness and it's elements of truth, but it's not the truth. It's really not the truth it's just, it sounds like the truth but it's not. It's truthiness.

I'm, I've watched this project, I've gone to a number of the meetings that have been held for it and I'm actually a little offended by some of the Photoshopped photos that have come up that have just not been accurate. In fact we just saw one today from Ms. Petrovich, one of the photos that went up that she showed as to what the new height of the house would be clearly had a row of red tiles above the existing or the proposed structure. It would not be as high. The view is actually improved. I think it's a wonderful project, I think it should be built, I think to leave the existing structure there would be wrong. This is a chance to have a wonderful structure by a world class architect and would greatly improve the, Montecito. I would be delighted to have it. Thank you.

Adam: Bernie Corea to be followed by Faisal Alissa.

Bernie: Good afternoon my name is Bernie Corea I've been a member of the Committee for a little over three years, so I've been following this project for the past several months and most recently when I've reviewed the design documents and there's a very blatant difference between the opponent's renderings and also the worry group's renderings, so I've been doing a little bit of homework trying to see what the truth behind this was. It came to an initial conclusion, you know I don't have 20 plus years of professional experience but it just takes a little bit of common sense, you know looking at the false Photoshop, you know something as simple as moving the location of the house off the lot or the false Photoshop with the tree. And very quickly comes to realize you know it's not right to try to fool the community that way.

And I know we've seen a list of signatures on a prior slide, but those signatures are based off of those false Photoshop images. And it's just not right. As people of great influence and respect in the community, I ask you to please look at the facts and make your decision and the facts show that this project in no way makes any violations to the current laws and regulations established for development. Personally I believe the project's not only beautiful but it is extremely progressive addition to Channel Drive and to Montecito. I fully support the project and I ask that you please look at the facts when you make your decision. Thank you very much.

Adam: Faisal Alissa to be followed by George Castle.

Alissa: Good afternoon my name is Faisal Alissa and my family members have been living here in Montecito since my grandparents came in 1980. Our family has a condo in Montecito shores next to the Coral Casino and a house on East Valley Road. Our family has been living in this neighborhood for many years and care about the people in the community. The Grabowskis are very nice people and we should welcome them to their new home. If we want, if they want to improve the neighborhood with their beautiful home, then we should let them. We have seen the proposed residence and believe that the design is greatly improved and it'll be a beautiful addition to Channel Drive. The house is modern and it uses natural materials and landscaping to blend into nature and I speak from my whole family

when I say that we all support the Grobowskis and their project and ask you to please approve their home. Thank you.

Allen: George Castle to be followed by Jeff Young.

Castle: Good afternoon supervisors and esteemed audience. My name is George Castle. I've lived in this area for about 34 years, most of it in Montecito. I'm damn lucky. I'm a member of the Coral Casino; been there about 32 years. I've had the honor of serving on the Montecito Beautification Committee for four years back in the 1970s, I think it is called the Montecito Association now.

Pretty much almost every day I took a walk down the beach and come back on Channel Drive. You've got to face it. Channel Drive and the homes and the ocean. It's the crown jewel of this area. It's gorgeous. There's nothing not to like. We're so blessed to wake up here. Anyway, while I was taking my walk last Friday and I spotted a little chair and a table and a gal and this poster here, so maybe we can talk Photoshop.

I have a really keen eye for spotting things and spotting differences, okay? So to start with at the top, ladies and gentlemen, on your, if you have your little poster, it says "blocks public mountain view" with a picture of the proposed house. But behind the proposed house is the existing house. Guess what folks, it's higher. Okay. Then we move on down to where it says "Too large, gracious."

First of all Photoshop. This thing is moved way forward on the lot. In fact, it's almost on the yellow line in the middle of Channel Drive, if they had a yellow line. Then let's take a look at the next one. "Blocks public mountain view."

Adam: I'm sorry, you're out of time.

Castle: Okay, well thanks for your courtesy, and I certainly am for building this beautiful house. Thank you.

Adam: Thank you.

Allen: Jeff Young, then we'll hear from Sam Maphis.

Young: Thank you for your time supervisors. My name is Jeff Young; I'm a long time resident of District One. I'm here because I happened to be walking down Channel Drive which I do with some frequency and I noticed the story poles. I inquired about the project. I learned about it and honestly what I learned more than anything else was that what was proposed is materially better than what exists. Then when I subsequently learned that there were some misrepresentations associated with what was proposed by the opponents of this particular project, I got disappointed.

The reason I was disappointed more than anything else is first, because I actually believe the project materially improves Channel Drive, but then secondly and

more importantly, the fact is that I felt that there was a silent majority that supported this project that might not come out and speak in favor of it. The people who are directly affected might in fact say that they don't like it, but the people who support it and think it improves the neighborhood wouldn't necessarily come out and speak for it, so I felt it my duty as a citizen, as a member of the community and as a guy who just walks along Channel Drive frequently to say that this is something I think you folks should support, so thank you.

Allen: Sam Maphis, to be followed by Mike Barnick.

Maphis: Good afternoon Chairman Adam and Commissioners. My name is Sam Maphis. I'm a landscape architect in town and I've had the honor of serving the community on the MBAR for many, many years. I'm a former member and during the process I was able to see this project come through many iterations and I'm here to support the project because I really feel like it did go through the system and it did go through the design review in ways that it should. It met criteria through all the professionals that are appointed to the MBAR. So with that, I think the process of design review was taken care of. I think it was looked at in neighborhood compatibility. It was looked at in terms of mass bulk and scale and it compared itself to certain aspects that were brought up at the public hearings during the Montecito MBAR hearing.

I think the Planning Commissioners as their duty, really should depend more on the MBAR as they certainly get all the feedback that they should in terms of design by professionals. They have other issues they need to look at in terms of land use, neighborhood compatibility and other criteria, but I really don't feel like the planning commissioners needed to get into as much design and emotion that was generated in this one. The design committee that was reviewing it for a year and a half had really done a very diligent job changing it. So I really feel like that part of it is something that you really need to realize in terms of our system, that the planning commissioners looked at it a little bit too extensively in certain areas that changed and worked into the design realm.

Now in terms of some of the landscape questions, I think I'm qualified as a landscape architect to speak to the fact that the trees that were proposed, I agree, in some cases of the two species are too tall. There are other species on the plant pallet and on the design that do fit, I think, a profile of staying lower naturally; would not need to be trimmed and I think in general, that is a case where the landscape could be relooked at and certainly conditioned in ways to help some of these questions that have come up in terms of bulk and scale.

Adam: I'm sorry, you're out of time.

Maphis: Thank you so much though, I appreciate the time.

Allen: Mike Burdick to be followed by Bob Klammer.

Burdick: Mr. Chair, Supervisors, thanks for your time today. I don't think I'd envy your job today at all. Either way it's a lose-lose. I'm here to speak in support of the project and one thing that I've never really heard anyone talk about today is people's property rights. When someone buys a property, they do diligence and they figure out what they can do with the property and what they can't. All those are written in reams and reams of guidelines and when you buy a property you have an expectation that you can do what these guidelines say you can do if you're being reasonable.

When I hear words like scale, massing, feel of the neighborhood, character, I don't know what that means. It means different things to everybody. If they don't want second stories in this area, then they should put it in the CCRs or do something so when someone buys a property they know they can't build a second floor. I think there's really been a disservice done to the Grobowskis. They have spent a fortune trying to defend themselves against these claims that are just, maybe exaggerated. I mean if we boil out all the community service that these lawyers are doing to preserve mountain views, I think it really comes down to some people feel that they're entitled to a better view of the ocean. They are fighting very hard to get it. So the question is, are they entitled to that or not?

Do they get veto power over someone's property when every piece of paper and the arduous process of going through planning says it's fine. I think that compromise is important here. They should be able to build a second story because nothing says they can't and when it comes to plants and trees and colors and all this, I don't think there's an issue to sort of accommodate whatever the neighbors want. To force them into a smaller home just because they're in the mood to do it, I don't buy into that at all. So I hope you'll take what I said with due consideration and support this project. Thank you.

Allen: Bob Klammer to be followed by John Eisenbeis.

Klammer: Chair Adams and members of the Board, my name is Bob Klammer. I'm a 36 year resident of Santa Barbara; 33 years California State Licensed Architect. About 25 years working as a senior designer along with infamous people like Barry Berkus on award winning projects. I currently work with Jeffrey Berkus and I've looked at these drawings and scrutinized them for their mass bulk scale, setbacks, height requirements, view corridors, floor area ratios, neighborhood compatibility, all these things typically we consider as designers. I've been on design review boards and critiqued and I think that the architect in this project has appropriately and very nicely addressed all of these issues, so I strongly support this project and I might also point out that one of the things I've heard earlier in the presentation from Mr. Hair, he said that the, one of the photos was taken across the street. I think if you took it right next to the hedge you wouldn't even be able to see over the hedge and also he was implying that if you got closer you'd have a more realistic viewpoint and just as an example, if I pull my paper in front of my face, yes that is going to block your view. So, let's be realistic and consider the views that are really there. Thank you.

Adam: John Eisenbeis, to be followed by Eric Still.

Eisenbeis: Good afternoon. My name is John Eisenbeis. Sorry about the voice. I've had the opportunity to review these documents, the drawings, both these documents and those provided by the applicants. Just in short, it's already been said, this is a terribly done document. It's inaccurate and misleading and I think it has gone a long way to unduly influence the neighbors. This document is accurate. I've looked at it very carefully. The story poles line up with the structure; the Photoshop, the photographs have all been totally accurate, so I'm fully in support of this project. I think it meets all the criteria for good design, good landscape design with the exception of maybe some modifications to a few tall trees, as my friend Bill has pointed out.

There's one other thing that I'd like to point out that was brought up several times during these discussions. The applicants required to the fullest extent possible preserve the views of its neighbors and it's my opinion that they've done that. They have gone to great extreme to preserve these views. What the statutes and the guidelines do not require is for you to improve your neighbor's view and that's where I see a conflict with several of these neighbors who are going to great lengths to have their view improved. So again, I would fully support this project. It's a beautiful house, a beautiful project and it would be an asset to this community.

Allen: Eric Still.

Speaker 1: He had to leave.

Allen: Eric's gone. Okay, then Steve Grabowski, and Steve is our final speaker.

Adam: Go ahead and clean up, no pressure.

Grobowski: You'll have a lot of time left after I speak. I just want to introduce myself. I had the pleasure to meet a few of you yesterday. I want to also introduce my wife, Cheryl, my son Devon came up from L.A. I also want to say that this has been a very difficult process as you can imagine, but I think it's also very important for me to recognize the people that have helped us out with this. The Warner Group, Thiep and Kelly, specifically. Derek as well. **I will say without equivocation that I feel very, very, very comfortable with my integrity saying that the facts that have been provided by our group are in fact what they are presented to be.** I would also be remiss if I didn't say a moment of thanks for one of our neighbors who unfortunately were not able to be here today, Paul and Jane Orfalea, who I believe sent along a notice to you, but they've been very supportive as well and I wanted to recognize that as well. Thank you very much.

Adam: Okay, do we have any staff comments? Oh, I'm sorry. That's right, you, I'm always trying to jump to the end aren't I.

Westen: I don't blame you. Derek Westen. I will just respond very briefly by way of rebuttal to some of the comments in the order in which we heard them. Mr. Hair testified that he had his own story poles put up and that they were certified. Two problems with that. First, the story poles are on his property, not on the applicant's property. So they really don't give you any kind of a realistic image. Second, he neglected to tell the surveyor, Joel Avakian, I went to school with Joel, that the plate was being lowered nine inches, so the story poles just are not accurate, despite their efforts. Mr. Hair said it looks like the photos were taken on stilts. I was there. I'm not a tall person, 5'9". The photos were taken in a normal way at eye height.

It is really important to emphasize that there is really overwhelming support. I think there are 27 or 28 letters that you have received. We're not going to burden you by reading them, but I hope you looked at them. Every one of those people had nothing at stake and nothing to gain wrote detailed letters saying that they had looked at the plans. They weren't relying on word of mouth, they saw the plans, they understood them, and they actively supported the project.

Time after time after time the witnesses who are opposing this say this blocks mountain views. All of us agree that the Community Plan is important. All of us agree that Channel Drive is important, but it doesn't work to just say it blocks mountain views if there's no evidence that establishes it and we believe that our evidence compelling establishes that the mountain view is improved, not diminished.

The three houses that, there have actually been three houses on which, Supervisor Farr, have been approved for second story. The house at 1210 Channel Drive had two different two story houses approved. One in 2013 and one in 2015, and the house at 1104 Channel Drive was approved for a new two story in 2005.

Sophie Calvin stated, black and white, that we had increased, not decreased, the amount of glazing. That is not correct. I ask you to ask for the facts from staff. I believe they have very carefully checked our figures and will confirm that they are accurate. Mr. Spiewack commented about the landscaping. Landscaping close to the ocean is a very harsh environment. They cannot grow at the pace he's describing. But it really is a bogus issue. We added the landscaping plan at the specific request of the Montecito Planning Commission. If people have suggestions for different landscaping, we are more than happy to consider them. We're just trying to give you a good overview and we have leaned over backwards and offered a view restriction to make sure that the Sturgesses will not be hurt. Usually, I have to strong arm clients to agree to that kind of thing, but Cheryl and Steve agreed right away because they want to do the right thing. That's what they're trying to do.

I really want to thank the many people who have come out to testify. They have nothing at stake, and there are so many people in this audience have taken hours from their day to come before you with no view or anything to gain, but because

they believe this really is the right thing to do. Susan Petrovich said “you have a chance to reboot. This is a brand new house, you can tear down the old house and build a new one; therefore you should start with a one story house.” That ignores reality. There is an existing two story house there. If this appeal is denied, nobody’s going to tear it down and put up a one story house. It will either stay there and we’re stuck with what we have, or they’ll make small remodeling and tweak it and over the years maybe it will look a little bit better, but nobody is going to eliminate the two story aspect of the house. Even a majority of the Planning Commission said two story is fine.

Yes, we made the second story larger, but we did it in a way that impacts no private or public mountain views and we think the evidence is clear. So this really is an unusual situation in which we are asking you to grant an appeal but you don’t have to continue it to get findings for approval, because staff has already drafted three pages of findings of approval. When the Planning Commission asked them to draft findings for denial, they only change two, well, three about this same subject: exterior lighting, which we have completely dealt with, and mountain views, which even four of the Planning Commissioners say was not an issue of concern. Actually four of the Planning Commissioners said they were not concerned about either lighting or mountain views.

Their own statement of the evidence shows these findings should be adopted, so I think I’ve respected my time. We really, really appreciate all the energy you’ve devoted to this. We respectfully ask that you grant the appeal and adopt the findings for approval that were original prepared by staff.

Adam: Thank you for the comments from staff?

Ritterbeck: Mr. Chair, the staff is available for any specific questions any of the supervisors have, but we don’t have anything to add.

Adam: Okay, thank you. Mr. Lovanino and then Supervisor Wolf.

Lovanino: Thank you Mr. Chair. I guess my question is about the landscaping plan. So if we moved forward is there something enforceable that we would, that we could condition, or how would we condition that, I guess?

Ritterbeck: Mr. Chair, Supervisors. There are a couple of options that you could consider. The most enforceable is if you actually change the project description or add a condition of approval that limits the height that the supervisors find appropriate, or you could give staff direction that we include in our memo to the MBAR for final review that they specifically address that northern property line screening.

Lovanino: Okay, thank you.

Adam: Supervisor Wolf.

Wolf: Thank you Mr. Chair. A couple of things that came out from the public. One has to do with the rooftop area, or maybe I brought it up and that's what we discovered. I hadn't seen that or really hadn't know about that, that there was going to be that rooftop area. Had that been discussed during the MPC hearings?

Ritterbeck: Mr. Chair, Supervisors. That was one of the areas that the appellant's team did speak to that they had that as an accessible rooftop garden. That one of the compromises was to exclude access to that area, so it had always been proposed as a form of green roof during this, the process.

Wolf: So it's not accessible then?

Ritterbeck: Mr. Chair, Supervisors. At this point, as Mr. Weston indicated, it's accessible via a ladder only; no internal...

Wolf: Oh, I thought that was the higher one, but this is the rooftop on top of the first story.

Ritterbeck: That's correct.

Wolf: So there is no access.

Ritterbeck: Mr. Chair, Supervisors. That rooftop deck over the first story currently has no accessibility from the second story of the house.

Wolf: Okay, from the second story, but how about, there's no access at all is really the answer.

Ritterbeck: That's correct.

Adam: No easy access.

Wolf: No easy access. One of the speakers mentioned that the second story is fourteen feet wider and if you can go to Mr. Weston's slide and it's this one that says story poles October 12, 2015.

Ritterbeck: Mr. Chair, Supervisor Wolf. Could you show us that picture one more time so that we can load that one? Thank you. Hold on.

Wolf: Okay, that's it perfectly. So if you are going west and you can see those green lines, is that what is being referred to as the 14 feet extension out?

Ritterbeck: Mr. Chair, Supervisor Wolf. The front façade has been reduced in width. The setback portion that is behind that is a new section that is being proposed and that is wider than what is currently there.

Wolf: When you say it's new, being proposed, give me a time frame, what do you mean by that?

Ritterbeck: Mr. Chair, Supervisors. The additional approximately 600 square feet of new second story is set behind the front façade and that new area of second story is what is wider than what is currently there.

Wolf: Okay, and then if you look at the area that is closer on the east side that has the lines through it. I'm assuming that that has been eliminated.

Ritterbeck: Mr. Chair, Supervisor Wolf. That is correct.

Wolf: So on one hand you're eliminating how many feet?

Ritterbeck: It's just being set back. It's not being eliminated.

Wolf: Okay, so can you clarify that.

Ritterbeck: Mr. Chair, Supervisors. The straight on street view does have a section to the east that is reduced in width and it appears to be approximately 8 to 10 feet. The architect could probably specify exactly; there you can actually see that's being eliminated, but that area is pushed behind and then elongated in a new section on the second story.

Wolf: But you can't see it from Channel Drive?

Ritterbeck: Mr. Chair, Supervisors. That setback section, there's a good massing of that that is behind that front façade so the applicant's _____ contention is that even though it is new area on the second floor, it's behind that massing, that front façade and as it's designed it also has a north-south access that does not impact greatly neighbors' views or public views.

Wolf: Okay, but the other side does increase the massing. You can still see it from Channel Drive.

Ritterbeck: Mr. Chair, there is a section that's on the west portion that is new that does extend out, yes.

Wolf: Okay, thank you.

Adam: And Wes, it would be the left hand side of the street view.

Ritterbeck: Mr. Chair, that's correct on this photo, yes.

Adam: Okay, thank you. Do we have a picture of this from the street as it will look with the wall in front of it?

Ritterbeck: Mr. Chair, we do. We will cycle through to that. If you would like, there is one that has, that shows the juxtaposition of the existing and the proposed, if you want that one up.

Adam: Yes, why don't we take a look at that one. Well, we don't have any, okay there we go. I guess I'll, the Chair is supposed to be last.

Ritterbeck: Mr. Chair...

Lavagnino: It's Mr. Carbajal's district so I guess we're all sitting here waiting for him to go first, so.

Adam: Guess he didn't want to be supervisor today.

Lavagnino: Yeah, so one of the things that we're asked to do, or required to do is make findings for approval or denial and in the, see here in the, you know, for me one of the findings would have to be that the lighting would be increased. I didn't see, I don't believe there's any outside lighting proposed. I didn't see anything in the evidence that anybody talked about that was talking about increasing lighting. That mountain views would be further obstructed. Views that I see that are obstructed are by the existing trees that are there and I really didn't see a picture at any point from any angle that with this new design further blocked any mountain view that already didn't have another tree behind that view.

I think the project's been downsized. Somebody talked about the mansionization of that area. It's a 3,100 square foot house which even in my neighborhood would not be considered a mansion and I'm sure in Montecito it's not. So, now I just didn't see the, the one thing I do have an issue with is the landscaping and while I think this might even be, you know, this view, this Photoshop view of what oak trees would look like maybe 20 or 30 years from now, while I don't think it's going to get to that extent, I do think it's something that needs to be addressed so that we don't have, you know, a landscaping plan that completely covers the property. I would be in support of granting the appeal.

Adam: Supervisor Farr. I thought you'd never click.

Farr: I was waiting for Supervisor Wolf. I couldn't stand the suspense. Let me just start off by saying that, you know, I've really struggled with this and for those of you who know me and know some of my history, I started out in county government as a neighborhood advocate on land use issues and then spent some years on the Planning Commission and now on the Board in my eighth year and so I and all of us up here are certainly veterans of a lot of land use disputes between neighbors and working on community plans, adopting community plans and then interpreting community plans later on as issues come up.

I'm always concerned about preservation of neighborhoods. I'm a big supporter of community plans. I'm always concerned about new projects that come in and that impact privacy of neighbors and public views and to a certain extent, private views. And in this case there is some protection from private views in the Montecito community plan, although there aren't in other parts of the County but we still try to respect that as much as possible. Because we know that that is very important to people and they buy property with the expectation that that's going

to be kept. So, I want to do what the community wants me to do and I want to do what the Montecito Planning Commission, you know, wants us to do. But my problem is, is that I'm just not seeing the support for it in the Montecito community plan itself or in the findings, as Supervisor Lavagnino talked about.

So, the Montecito community plan doesn't dictate a particular design style or styles of range. It doesn't dictate a limit on square footage, including for second stories. It doesn't ban second stories on Channel Drive and as we've heard, there's actually been some new ones approved in the area so there's not even a trend to not allow them anymore. The project doesn't ask for any modifications, which we, a lot of times, see. Modifications in the height, let it go taller; modifications in setbacks. And in fact, for the square footage that's counted, there has been an overall decrease and therefore an overall reduction in the percentage over the FARs so it's within the range that seems to be already there according to the information that we have.

Like Supervisor Lavagnino I'm not seeing mansionization here either. So, you know, it's really hard. And you know it does come back to the findings, you know, what do we have? What are our policies? Where can we say, you know, how this doesn't comply? And you know, as I reported in the exports, you know, the conversation that I had with Ms. Petrovich did focus a lot on the Montecito community plan policies and those that she felt this project was in violation of. But I'm struggling seeing it. I think when it comes to the lighting, you know as we talked about before, this would require a lighting plan externally.

I don't believe that we have policies that can really regulate the lighting internally. And I have to say although I'm not sure it came out in this hearing, that when I met with the applicant appellant, that they talked about the fact that they felt that their first floor was going to be less visible from Channel Drive when they were done than it is now because of putting in a slightly taller and solid wall. They wanted to have more privacy in that area because that is where the swimming pool is.

So I'm thinking that there's going to be a less light visible from the first floor than there is now. The other thing that is mentioned in the findings has to do with overall increase in size, bulk, and scale as it impacts views from Channel Drive of the house and then of the Santa Ynez Mountains. And that, you know, concerns me. But again, you know, from the information that we have, I'm just not seeing it. Because as Supervisor Wolf pointed out, there seems to be a reduction in the second floor on one side, and an addition, you know, on the other side. And an overall lowering of it, particularly with the reduction in the chimneys that are there. So I'm just, I'm not seeing this massive intrusion into the skyline that would really, you know, set me back and say whoa, you know, we're, this is not anything we want to have anything to do with.

When it comes to the neighbors, the Hairs seem to have quite a wonderful view of the ocean and it looks like it might be improved by the taking off of the corner of

the second story on that one side. And the Sturgesses directly behind, I share Supervisor Lavagnino's concerns about the landscaping. And I think that if the Board decides to move forward and grant the appeal that there definitely should be direction that says that the landscaping needs to be of a type and size over time, that is not going to impair the views that the neighbors have at this point in time. So, you know, it's a very odd position for me to be in, but I'm just, I'm not finding enough there to be able to say that this project, you know, is not acceptable. At least according to the Montecito community plan. Thank you, Mr. Chair.

Wolf: Well I'm very conflicted, just to say it right out loud. I'll just tell you my thought process because when I first looked at this, I did feel like it, this was an enormous house. And I know we're not supposed to look at the basement, but to me it's almost like it doesn't feel like a basement. There's a bedroom and other structures. The elevator goes down. There's an entrance from the front, a nice little patio with an entrance. It just doesn't feel like what I think of as a basement. The garage is larger, and of course the second story is just about double the size. So when I take into account all of those things, I'm looking at a significantly larger home. But that's, and I am also looking at a significantly nicer home. But I don't think that either of those issues are in front of us. Whether or not I like the home or not, the size of the home, apparently I would have included portions of the square footage that I shouldn't. So if you just look at what I'm supposed to look at, this house would be smaller. But it's really not.

I asked the question yesterday about the height because I was really concerned and frankly confused by the different renderings that we were seeing. So I, that's why I talked to staff to get a better understanding of that. And I thank you again Jay for that, and I really, I'm feeling less uncomfortable with the impact that this would have on mountain views, on the views of the Santa Ynez mountain range. But there's no getting away from the fact that with all that, that with approval of this project you would be doubling the second story. And by doing that, there are definitely impacts. And there would be impacts from Channel Drive, and there would be from the front of the house and also from that corner photo. There would be an impact of the public view.

Is it less significant than I thought it was at the beginning when I first looked at these photos? Yes, it is. It's lower down. But the bulk or the size of that second story is still greater. So then I was looking at, you know, neighborhood compatibility. I guess if you look at the size, the square footages we're supposed to look at, it does seem compatible. It's just that second story that's so troubling to me. This would have been much easier if you just didn't have that. If you just, I'm not against second stories. It's just like, it just makes it much more difficult. So I would have to make the findings that this conflicts with the Community Plan, the Montecito Community Plan. And one of the policies is that new structures shall be designed, sited, graded and landscaped in a manner which minimizes their visibility from public roads. And I don't believe that this project minimizes the visibility from public roads.

I think that it's greater than what is there currently. Now as far as the lighting goes, for me that's not an issue. Protect the visual importance of the Santa Ynez mountain range and ocean views. Well as I said, it's not as bad as I thought it was, but I do think that there is an impact to the Santa Ynez mountain range. So I am leaning toward not granting the appeal, but I see that we have two members so far who are leaning toward granting the appeal. You know, I could make us, you know, a vote and kind of be the one who is there for the community, which is something that I like to do, because as, you know, Supervisor Farr said, you know, we take the issues of our community very seriously. And I know if it was Eastern Goleta Valley, people would be, you know, they take every street and every view very seriously.

So do I do it based on that? Do I make my vote based on that, or do I do it based on the facts? Or how I interpret the Community Plan? And I think, and thank you all for listening to my crazy thought process. My husband has to deal with it all the time. I think that when push comes to shove, I am going to have to fall on the side of the Community Plan on the policies that I outlined about the visibility from public roads and protecting the visual importance of the Santa Ynez mountain range. And to the Grobowskis I am just, I think, I don't, I hope, well it's, you know what? The vote may just go your way and then you'll be happy. I don't know what the vote's going to be. But that's where I stand.

Adam: My turn. Yeah, the first thing I am is mad. Because this whole issue of the elevations called into question and really not being able to resolve. And you know, in this day and age of the ease with which people can make representations, you would think that in the event that there was a conflict like this, there would be some kind of a verification resolution process. Because, you know, are you guys able to represent either one of these sorts of plans or representations are accurate, technically accurate? Or are we having to rely on everybody?

Ritterbeck: Mr. Chair, Supervisors. The applicant, appellant's plans are drawn in AutoCAD, and they've rendered those photorealistic simulations.

Adam: Mm-hmm.

Ritterbeck: Staff's analysis would accept those as completely accurate.

Adam: Okay.

Ritterbeck: They were accepted by the BAR as well.

Adam: Okay, and are we aware that the Hair drawings and representations are created with AutoCAD also?

Ritterbeck: Mr. Chair, Supervisors, no. There's, I do not know how those were generated. There was one, it appears Ms. Petrovich will answer that question, but as far as staff, there's, I don't want to...

Adam: No, I think we're at staff now, thank you. Thank you.

Petrovich: I understand, Mr. Chair, but that, it's a misrepresentation to say they aren't AutoCAD. They are AutoCAD done by Sophie Calvin in the audience.

Adam: All right. Well, I wish that you had a way to vet these things a little tighter when you have a problem like that, because, you know, we've got two different sets of plans and you know, when you look at a representation like this, I just, I frankly I have a very difficult time thinking that's unreasonable. And I think that that's the same problem that Supervisor Wolf and Supervisor Farr are having with their struggles with this. You know, and that's problem I have is that, you know, we have, and I'm a mansion guy. I love mansions. I mean, if it was a mansion, I would be even happier. I mean if, if it was 10,000 square feet I would be good with that. But, you know what we get from mansions? We get taxes. We get property tax. We get 90% of our money, which we don't have enough of, from property tax.

So for me, you know, we've got a business to run here. We've got a lot of services to provide. We have a lot of demands on all of the dollars that come in here, and you know, when it really boils back down to it, you've got a neighborhood dispute here. And I understand that there's some people that may lose a square inch. You know, Mr. Westen, you missed an opportunity for another statistic here. You could have counted the pixels. You could have got down into how many pixels there were of ocean color, you know, and we could have really gotten down into the weeds on this thing. As if we didn't get in the weeds, I mean, we'd have to get inside the leaf in the weeds if got any deeper in this thing.

So yeah, I'm having a problem saying that this is unreasonable or incompatible in any way. And, you know, if you're going to say, I think it's unreasonable to say the world can't change. I think the world has to be able to change a little bit from time to time, and you know, these people bought this piece of property. You know, as Mr. Westen said, there's never going to be not a second story. So without belaboring it, I'm going to support granting the appeal. So do we actually have a motion to incorporate?

Russell: Mr. Chair?

Adam: Yes?

Russell: I understand the conceptual of where you're going with this, and I think that the package in front of you is set up as deny the appeal. You do have findings for approval of the project that were at the Montecito Planning Commission but if the Board wants to approve the appeal and approve the project, I think the options are you could trail the package and allow us to work with Planning while you go back to closed session on that, or to continue the item down the road. I think we've had a couple items that would need to be addressed, including what I'm hearing

so far is some concerns on landscaping and how to address that. And that doesn't sound like a quick fix on the conditions, as well as addressing what I understood to be the concept of finding applicants' visual presentations more credible.

There's a few things in here that, given this project, I think would be worth some time to tighten up the findings for approval of the project. And again, we might be able to do that in the next, you know, 45 minutes. Or you might want to continue the items so you could have those findings addressed.

Adam: Well, I think what I'd love to see us do, and Supervisor Lavagnino to say something.

Lavagnino: Well go ahead. I think you're going to say what I was going to say.

Adam: Okay. What I'd like to see us to is trail this thing. I think we have at least an hour in closed session. Is that too short? That's too long. Okay, all right. Well that's pretty good. Well, I'll believe that when I see it. Because usually that's a rose colored glass estimate. So let's see. I know that Mr. Westen is there, and let's see if we can't get this squared away in a little while and do something.

Russell: So I think that what I've seen so far is just, and I'll vote no vote on it, but just direction to staff to return in about 45 minutes with updated findings to approve the appeal, make the findings for approval, address the CEQA exemption for approval and approve the project. And I don't know if staff, and you might ask staff if they need any further conceptual direction on the landscaping concern that Supervisor Lavagnino raised and I think we heard raised here. If there's any specifics?

Lavagnino: No, you get to landscape too?

Russell: Mr. Chair, Board members, just to clarify. The impression we have is that we would not be adding a new condition addressing the landscaping but rather giving proper direction to the Montecito BAR to review the landscaping with particular attention in terms of the species along the fence line to ensure that it doesn't block any private views of the ocean?

Adam: That's my direction. At least, that was my concern.

Lavagnino: Okay.

Russell: I think that provides us enough.

Adam: All right, perfect. Do you need to read us out into closed session again, or?

Russell: Chair, out of the two remaining items for closed session today are public employee appointment for consideration of public defender, and public employee evaluation for County Executive Officer.

Adam: All right, well we will be back in 45 minutes and that's a promise.

Adam: For coming. Are we on? Alright. Alright. Ms. Black are you gonna, I see the mic pointed and both mics pointed at you so that must mean that you're in charge there.

Black: [inaudible]

Adam: Uh, uh, no I think we'll do that last. Yeah.

Black: Okay. Um, so M, Mr. Chair Members of the Commission, we have prepared revised findings which, in there substantive part includes underlining so the Board can identify what we changed. There were other changes made to reflect, these findings being adopted by the board, rather than the Planning Commission, but we didn't underline those. And Alex can walkthrough those, if you'd like, we also attached the CEQA exemption, um, as Exhibit B and then Exhibit 3. Exhibit 1, Exhibit 2 and Exhibit 3. And Exhibit 3 has one change, substantive change to it, to reflect the direction you gave and that is Condition 3, which is the aesthetics BAR Condition. And we added the MBAR shall verify that landscaping, shall not impair existing private views of neighbors of the ocean.

Speaker: _____ not been distracted?

Black: No, it's not stricken it's I, we didn't put in strike outs. The last sentence before timing, in Condition 3.

Adam: What number is that?

Black: Condition 3. In attachment. It's Exhibit 3, that's the CDP and then Attachment A is the Conditions of Approval 2, the CDP. If that makes sense. It's, and there's a subheading that Condition by Issue Area. Conditions by Issues Area. It's the very, that first condition that follows, Condition 3, on page A-2. And then when, when your board is ready, I can read the proposed motion into the record for you.

Russell: And Chair Adam, we'll just note that, copies of the materials, that Ms. Black has been going over, have been made available to the public in that back of the room. They're posted on-line and before the board actually makes a motion on this I would recommend providing a limited opportunity for public comment on these updated findings.

Speaker: Do you, do you want some personals?

Wolf: I have a question.

Adam: Yes, speaker's _____ would be great. Thank you. Supervisor Wolf.

Wolf: Thank you Mr. Chair. On item 2.2.4 that is the second page, it says that about the photos and the second-story element would not appreciably block public views of

the mountains, as seen from Channel Drive. So, using those that terminology cause I guess what I was saying, is, is that that it still does block the views. That, so what this language, I've never really, seen, I've never really seen this in, in a document. Either, it seems to me, that either block's the public views, or it doesn't.

Speaker: Mr. Chair, Supervisors, obviously we were fairly crunched in trying to craft some language here. But the discussion sort of boiled down to, is it compared to existing residence, or is it compared to nothing on-site, or, or how do you take into consideration the mature trees in the background. So, I think Steph would feel comfortable removing that, that word, that adjective, appreciably and just leave it as does not block public views of mountain, as seen from Channel Drive, if you'd be more comfortable with that.

Adam: I, I, I recommend against that. I mean, I'm no attorney, but when you say, categorically, that it doesn't block public views that you know, it does block public views, a little bit, but it, appreciably, is like, there's an acceptable level. It's down to, how many pixels does it block, more than the other thing, from the same place, you know. And if you move a little bit, it's not gonna block, as many, or it's gonna more than,

Wolf: Okay, that's fine. I just wanna bring it up.

Adam: you know, it's, how many angels dancing on the head of a pin.

Russell: Chair Adam and Supervisor Wolf, I think also it would help if you look a little bit further down my page, at um, Finding 2.2.4, "The development will not significantly obstruct public views for any public road. So it's, it's harmonious with that, 2.2.4 at the bottom of that same page.

Adam: We were on 2.2.4.

Carbajal: Mr. Chair, Commissioner...

Russell: At the bottom first page, if you, if you look, actually, if you wrap around, wrap before the text you're on, right at the top of 2.2.4, that's the actual finding. The development will not significantly obstruct public views.

Adam: Yeah, okay.

Black: And Mr. Chair, I'll just point out, for the board, that we felt it was important to point to the evidence that the Board was relying on in those photo simulations, I think, were evidence in these show. The relatively minor change.

Adam: Okay, uh, shall we do public comment? Let's call em up. Mr. Allen. Let's, let's do three minutes. We'll give everybody three minutes.

Allen: Ms. Wolf?

Adam: Since they're hanging in.

[Multiple speakers inaudible]

Adam: Oh.

Allen: Ms. Wolf?

Wolf: Go ahead ask, thank, thank you.

Allen: Then Ms. Petrovich and then Mr. Westen.

Wolf: Basically, again. My name is Mindy Wolf thank you Supervisor Wolf for your comments and thoughtfulness, as far as the guidelines and policies go. I'm basically going to just object, generally, to the drafting of the findings, there are no ability to kind of on the fly, right now, provide comments to them. It's a little bit tricky, I don't believe that you all made findings consistent with these. There wasn't, they weren't specifically discussed amongst yourselves today, and it feels like, since this was crafted in the backroom, just in the last 30 minutes, it feels like some more thought and review, should go into these findings, prior to your accepting of them, and taking a vote. A continuance would be more appropriate.

Adam: Excuse me, stop the clock. Are you, are you asserting that the Board, was in the backroom crafting these things?

Wolf: No, no, the staff was. Yes sir.

Adam: Okay, just wanted to make that clear.

Wolf: No, the staff was in the, the staff left.

Adam: I think you said, you all were in the backroom...

Wolf: Oh, I'm sorry, the staff.

Adam: Crafting, sounded like I was involved in that, yeah.

Carbajal: That didn't sound good. I, I, I really take offense to that. That did not sound good, and I don't know what you're trying to insinuate, but...

Wolf: The staff.

Carbajal: We, we basically...

Wolf: I meant the staff. I didn't, I'm sorry if it came off. . .

Carbajal: But they're not, they're not going into a backroom crafting something. They took what we said, came back with findings, just like they came out with findings for approval originally, and during the hearing they went back, and came back with

findings for denial. I mean this happens all the time so, I, I, just took, and I, I, didn't like that.

Adam: Well and, and these are, these findings were, were prepared for the Planning Commission, Montecito Planning Commission. You should know that.

Wolf: And they were rejected, right?

Adam: Exactly.

Wolf: Okay.

Adam: That's why we're...

Wolf: So, so first of all.

Adam: Up here, okay start the clock.

Wolf: Okay. First of all, well can I respond really quick?

Adam: No, go ahead.

Wolf: I'd like to apologize if it came off as if I thought, you Supervisors, went into a backroom. I know the staff did. I made an effort to approach staff to discuss some of the concerns I had about the conditions and did have some interaction and tried to have some influence on them, but there was no attempt, there was ability for us to comment on them, as they were being drafted. Obviously, I didn't...

Adam: We, we gave them orders and they went and executed the orders, that's what staff does.

Wolf: Okay. Okay time is running, there you go. It, it really wasn't intended as a personal insult. I'm surprised it came off that way. And so, I apologize for that. Specifically, the, the broad finding of the project does not block any views from beach and retains public views of the mountains, as viewed from Channel Drive 2.2.4. I didn't hear communication from the three voting towards the product, that it did not, it retains public views of the mountains and so it felt that, that staff, particular finding, was inaprop, would not be appropriate, in this instance because I didn't hear that language, and so specifically that finding, I would think could be modified because, specifically, Supervisor Adam just said, "Well it does impact at some, but just not that much. We didn't think it was very much, very significant, um, and that was just your comment you just had made. And I, like said, I got handed this five minutes ago so I'm trying to look at it and provide public comment because were asking for it on the spot. The photo simulation story poles validated by license land surveyor. I guess I would ask staff, is that based on the piece of paper that the applicant puts up on the their slides, that has a piece of paper, I think it's _____ Land Surveying, is that the basis for that support Alex?

For that statement, under 2.2.4, at the bottom of last sentence? Second to last sentence.

Adam: Yeah, this, this is for comment. You can, you can give us your comment.

Wolf: So it'd be helpful to know where that finding is coming from. I guess I would, one second, urge the Board to consider all the comments that were made, including Supervisor Wolf's, in the finding that they made. Thank you.

Adam: Ms. Farr.

Farr: Mr. Chair just to weigh in on this. You know, I, I just wanna say, on the record, that these findings for approval, were in are packet. They were part of the public packet. They were specifically a reference by, Mr. Westen, and his presentation, although he said wasn't going to take the time to go through them. I would have thought, if anybody, you know, thought that might be a possibility, that you know, they would've looked at them because the only changes were looking at now, are the changes that underlined and that staff are outlining, that are anything different from what has been in the packet for this project, from the very beginning, including coming to the Board.

Adam: Supervisor Wolf.

Wolf: Thank you Mr. Chair. I guess the, so I'm not gonna vote on the findings, but I would be surprised I am surprised to see one of the findings talking about the exterior lighting. We really, I don't recall that we really touched on that very much. Other than the photo simulations I myself even said, that I didn't wanna get into the issue of lighting, and yet that's that's on 2.2.1, but that's up to you, to you guys because that is an added finding, and I'm just saying that I don't think we talked too much about it, other than there is a PowerPoint presentation. Thank you, Mr. Chair.

Farr: Mr. Chair, just in response to Supervisor Wolf. I, I mentioned it in my questions and I mentioned you know, in my, in my comments. So I know that I raised the whole issue.

Ritterbeck: Mr. Chair, I think I asked the question of staff as well, so.

Adam: Okay. Ms. Petrovich.

Petrovich: Thank you Mr. Chair, my, my name is Susan Petrovich and I just do want to raise the fact that this is a highly controversial project, as you saw by the number of people here, and in this kind of project, it's very unusual to give the opponents five minutes of review time including of the changes to comment. So I'm trying to hit all the ones I can but with the proviso that I think the process is inappropriate for this project. This addition on the second page it's the 2.2.1, there is no evidence in the record that there are any lighting controls to ensure, either exterior lighting, or interior lighting. Later there's some conditions that

there shall be, but there's nothing in the record that the current project, as designed, and that's what this states has those and if you're basing it on a visual simulation, I don't think you can do that. Do you have to have something that actually shows that there are controls, uh, evidence has to support these findings, and you don't have that evidence.

Into 2.2.3, it says that subject property and proposed project, during full compliance, with all rules, laws and regulations, pertaining to zoning uses and so forth the evidence in the record is contrary in the Montecito Community Plan, is contrary. In 2.2.4, the proposed project does not significantly obstruct public views from any public road or from a public recreation area. If your findings said does not increase, the obstruction, or substantially increase the obstruction, perhaps this would be a true statement from your perspective, not from ours. We say that it does not, but the proposed project will significantly obstruct public views because the current house significantly obstructs them so the evidence does not support your finding I don't believe there's any evidence in the record, regarding the story poles supported by licensed surveyor but I would say that both, both the applicants, and the opponents CAD presentations did reflect the work of a licensed surveyor and were certified based upon story poles. 2.2.5, in the middle, it says, the revised project, which reduces the overall size, there's no evidence, to, in the record, to support that. In fact, the evidence is to the contrary, there's no reduction in size, overall size. And then in the conditions. It's hard to find the changes because they're not highlighted in the conditions.

Adam: Thank you, Ms. Petrovich.

Petrovich: Well I would object to being cut-off because of the short time that was allotted to even review these. So you're entitled to cut me off but I think it's inappropriate, I think it's a mistake, but we'll take care of that later.

Adam: Thank you.

Westen: I so thank you as Supervisor Farr mentioned, the findings, except for these changes, have actually been in the record for, I don't know, six months because they were originally presented to the Planning Commission I believe last year. I have had the chance to look at changes, that are underlined, I think they are appropriate, as I heard your comments I think they comply, it's my understanding that the only change to the conditions um, let me confirm this with you, Diane, is in paragraph three, at the end of the first full paragraph, there's a new sentence the MBAR shall verify that landscaping shall not impair existing private views of the neighbors, of the ocean.

And if that's the addition, we think that's fine. A question was raised about the surveyor certificate, we did have a surveyor verify the accuracy of the poles and we submitted, I believe, the original, which has a surveyor stand in the record and then we had a photocopy of it in our slideshow, but the document was provided, to staff we have stated, on the record, that we are removing all exterior, kind of

bright lighting of the exterior of the building, which we think is responsive. And I will remind you the MBAR has final control over all details, architectural details, and lighting. So we thank you for your time. You really put a lot of effort into it and I'd be happy to answer questions but those are my comments.

Adam: Alright. That brings it back to the Board, oh, no it doesn't, staff. You're gonna, give us a proposed language.

Black: Would, would you like me give you language firm, a proposed motion?

Adam: Mm hm.

Black: So I think your motion would be: a) Approve the appeal case number 16 APL 7, make the required findings; b) make the required findings for approval of the project, including CEQA findings included in Exhibit 1, presented today, at your hearing; c) Determine that approval of the project is exempt from CEQA pursuant to Sections, CEQA Sections 15301 and 15303 of the State guidelines, for the implementation of the California and Environmental Quality Act, as specified in Exhibit 2, provided today; d) approve the project de novo Case Number 14-CDH-14 subject to the conditions in Exhibit 3, provided today; and e) wave the, do you have the, I don't think I wrote it down right. Wave the, oh, I did write it down right, sorry. Wave the notice of exemption six-day posting requirement, for good-cause pursuant to CEQA county CEQA guidelines, Section VD2, and I believe that we reflect the action of, of the Board, in conceptual form.

Russell: And we concur.

Adam: Okay. Alright do we have a motion to that affect?

Farr: All, I'll make that motion as Ms. Black read it into the record.

Carbajal: I'll second it.

Adam: Okay do we need a roll call? Okay. This, this trail.

Allen: Ms. Wolf?

Wolf: No.

Allen: Ms. Farr?

Farr: Correct.

Allen: Mr. Lavagnino?

Lavagnino: Pass.

Allen: Mr. Adam?

Adam: Ay.

Allen: Passes three to one. The record reflect that, Supervisor Carbajal, was recent, recused himself.

Adam: Okay. Alright, so Mr. Ghizzoni_ you'll reading us out.

Ghizzoni: Chair Adam, the report out from closed session today, and close session, the Board considered three cases, of existing litigation, George versus County of Santa Barbara, _____ House v. County of Santa Barbara, Santa Barbara Channel Keeper v. County of Santa Barbara. Two potential cases of anticipated litigation, conference with labor negotiators for all bargaining units, unrepresented employees, managers and executives. You were scheduled to consider public employee appointment, for public defender, but did not, and public can play me, employee performance evaluation for county executive officer. No reportable actions.

Adam: Alright, and so now we are, uh, not coming back until August 23rd.

Speaker: No, it's not.

Adam: Oh, we have a special meeting? What are, what are next date?

Speaker: _____ is June _____.

Adam: You don't have to come. You don't feel like being a Supervisor that day, that's okay.

Speaker: Yeah we have a special meeting on the 16th to just to consider the re-ratification of the resolutions. Then they're back for regular meeting on the, on August 23rd.

Adam: Twenty third, okay. Pretty good. Alright, thank you very much.

Sinkula, Megan@Coastal

From: Petrovich, Susan <SPetrovich@bhfs.com>
Sent: Wednesday, October 12, 2016 4:54 PM
To: Sinkula, Megan@Coastal
Cc: Steenberge, Hillary H.; Sophie Calvin; Sophie Calvin - Calvin Design (sophiecalvin@cox.net); Michael Hair; tom.sturgess@lsf.co.nz
Subject: 1154 Channel Drive, Olsten Trust -- My Earlier Email -- Attached is a plot plan showing the comparison between the existing house and the proposed footprints
Attachments: 1154 E flr vs P flr.vwx.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

As we have claimed, the proposed house has every bit as large a footprint (and perhaps a bit more) than the proposed, plus the second floor is doubled. There is no way to explain the applicant team's doctored photograph purporting to show far less size, bulk and scale for the proposed when compared to the existing.

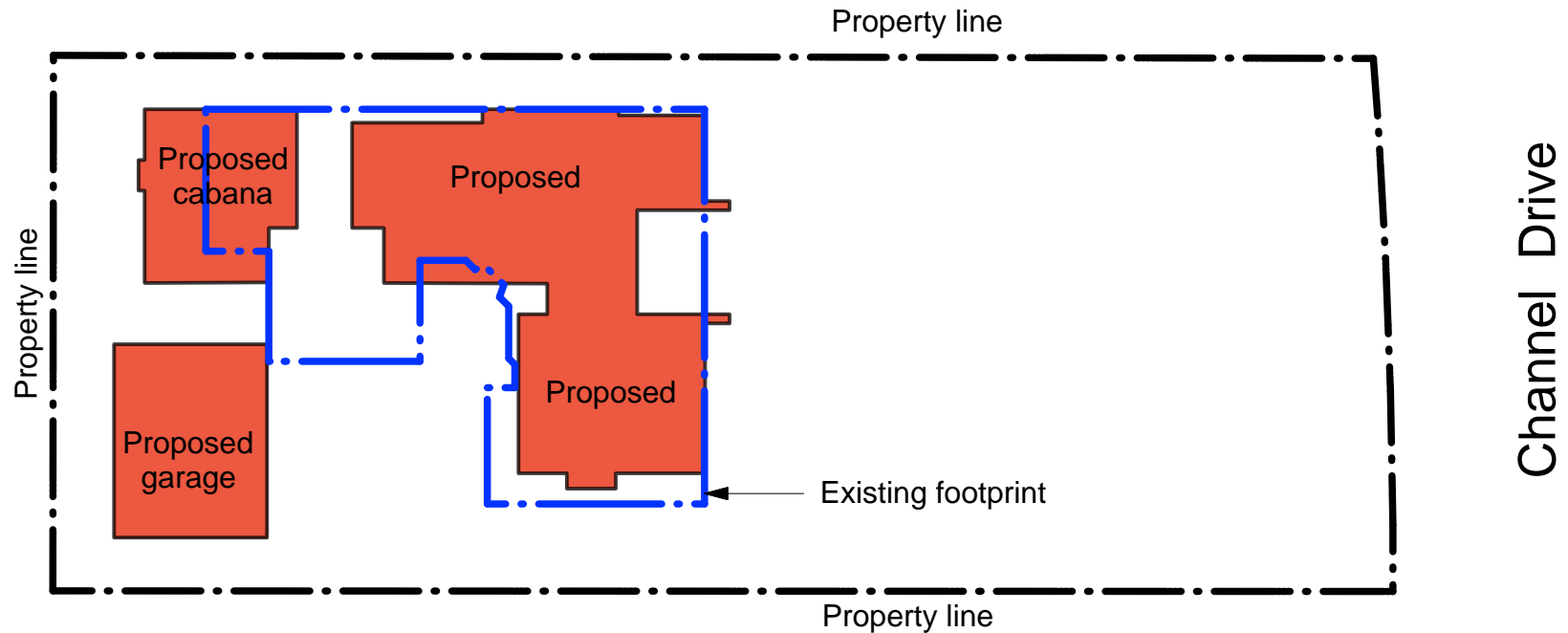
Susan

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1154 Channel Drive

Existing footprint vs. Proposed footprints



Existing house and garage footprint = 3,760 sq. ft.

Proposed house, garage and cabana footprint = 3,762 sq. ft.

Sinkula, Megan@Coastal

From: Petrovich, Susan <SPetrovich@bhfs.com>
Sent: Wednesday, October 12, 2016 5:31 PM
To: Sinkula, Megan@Coastal
Cc: Steenberge, Hillary H.; Sophie Calvin; Sophie Calvin - Calvin Design (sophiecalvin@cox.net); Michael Hair; tom.sturgess@lsf.co.nz
Subject: 1154 Channel Drive -- Precedent Issue

Follow Up Flag: Follow up
Flag Status: Flagged

Megan, we discussed the issue of precedent briefly when we last met. Here is an update on that issue:

As of today, there is one recently completed 1-story house just east of 1154 Channel Drive that has floor-to-ceiling glass windows and is sited very close to Channel Drive.

Adjacent to that house is a new house under construction, designed by Warner Group, that also has floor to ceiling glass on its south elevation. I have obtained a copy of the rendering for that house as well and can provide you with a copy if you would like.

If 1154 Channel Drive is approved, that will make the third new house with floor to ceiling glass on the south elevation.

If 1154 Channel Drive is approved, it is probable that the adjacent neighbor to the west of that property will apply for a second story because he has been trying to that privilege for some time.

That would be 4 new houses with the lantern effect on Channel Drive, 3 of which would be 2-story. That will change the character of the neighborhood significantly, especially for those houses on such small lots that there is little room between the house and the traveled way.

Please let me know if you would like me to send you that rendering.

Susan

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