# **CALIFORNIA COASTAL COMMISSION**

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



# F11a

# A-4-STB-22-0027 (2305 Finney St) November 17, 2023

## **EXHIBITS**

Exhibit 1	<ul><li>Vicinit</li></ul>	y Map
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Exhibit 2 - Aerial Overview

Exhibit 3 - Project Plans

Exhibit 4 - Site Photos

Exhibit 5 – Development Exclusion Area

Exhibit 6 – Appeal by Dominique Lacerte

Exhibit 7 – County Notice of Final Action for CDP No. 21CDP-00000-00053

Exhibit 8 – Correspondence Received







PACIFI

1117 COAST VILLAGE RD.

MONTECITO, CA 93108 8 0 5 . 5 6 5 . 3 6 4 0

> 2805 FINNEY ST. SUMMERLAND, CA 4806<sup>°</sup>







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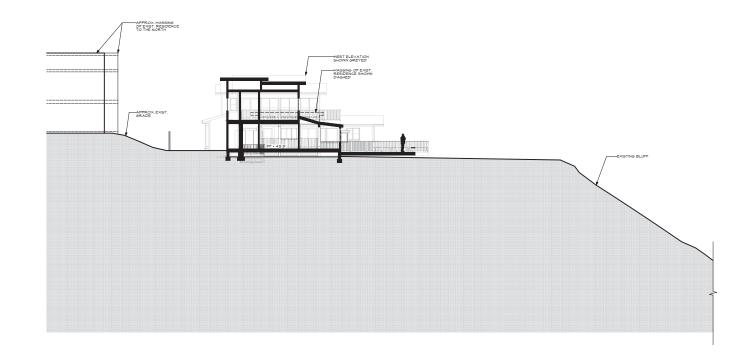
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SITE SECTION 'A-A'

MALL LEGEND

(N) 2X STUDS @ 16" O.C. D.F. No. 2 OR BETTER

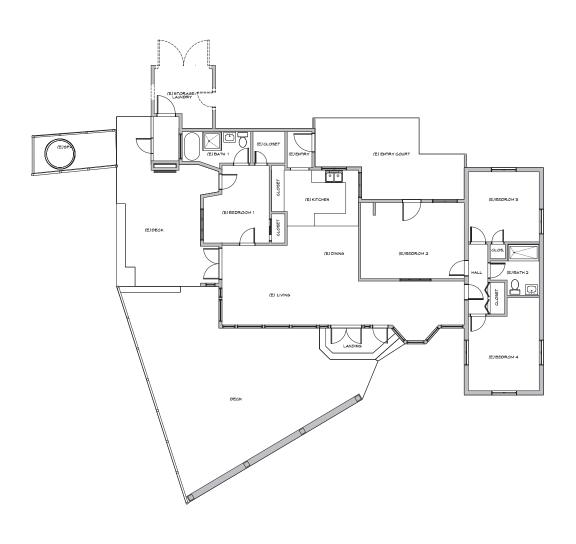
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LOWER FLOOR DEMOLITION PLAN

- EXISTING LOWVOLTAGE PLUGRESCENT

- PLUDRECTOR

  LED AT TO CARGOT

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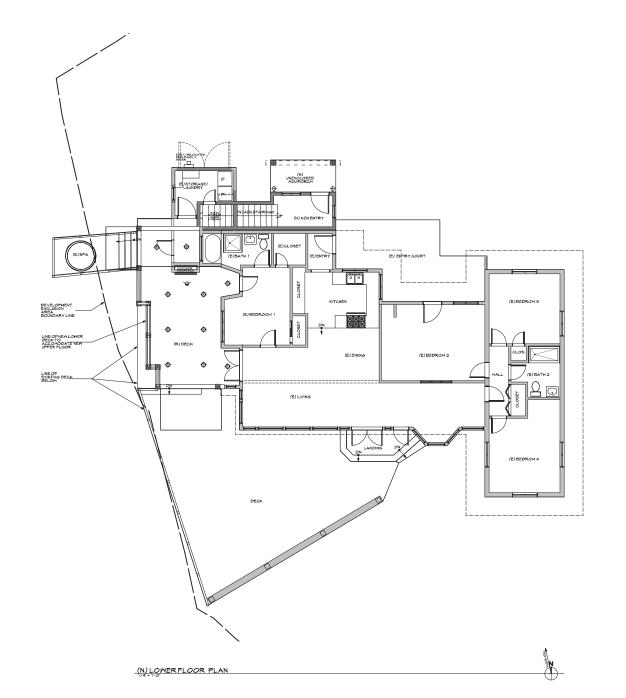
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PACIFIC ARCHITECTS

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> ð 2305 FINNEY ST. SUMMERLAND, CA





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MALL LEGEND

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(E) WALL TOBE REMOVED

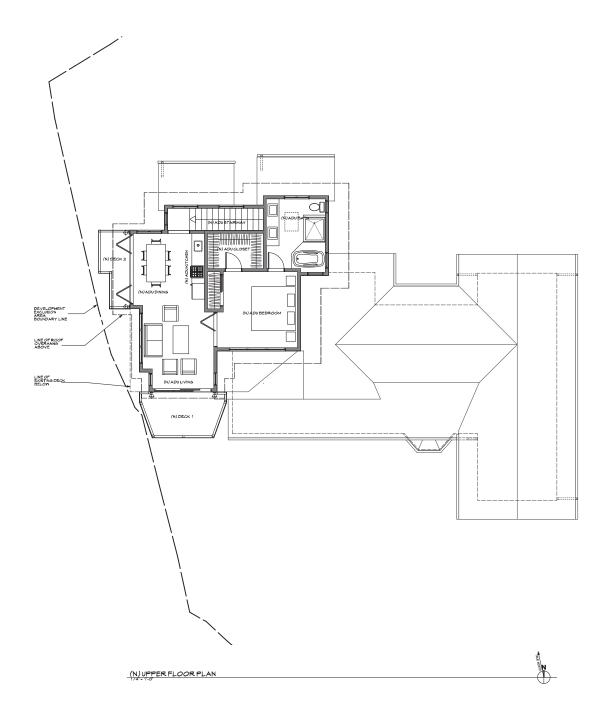


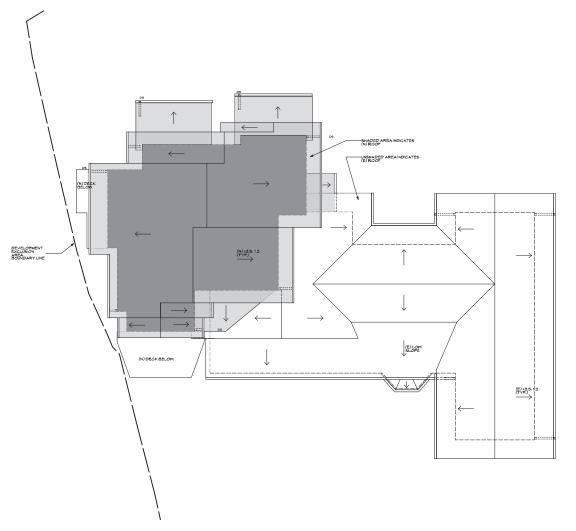


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ROOFPLAN

#### ROOF NOTES:

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PROVIDE EXPANSION JOINTS (SLIP JOINTS) ON GUTTERS EXCEEDING SO PEET IN LENGTH.

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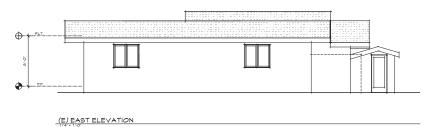
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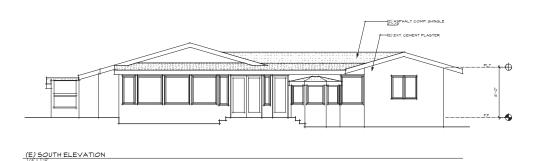




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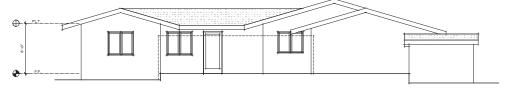
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(E) NORTH ELEVATION





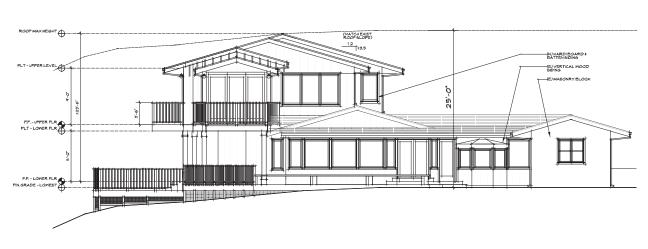




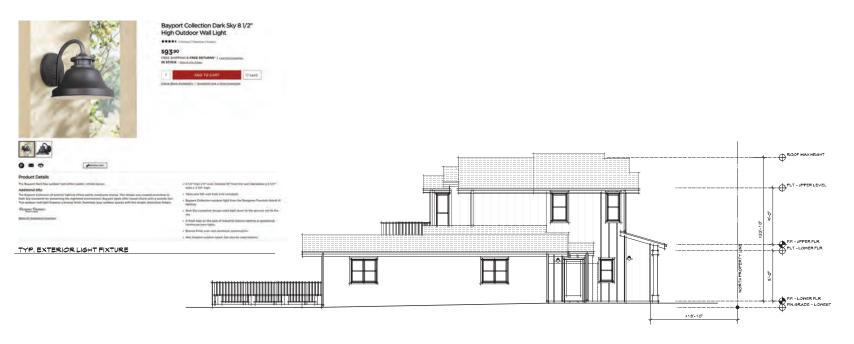
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BOUTH (REAR - OCEAN FACING) ELEVATION



EAST (SIDE) ELEVATION

2305 Finney Street



2305 Finney Street

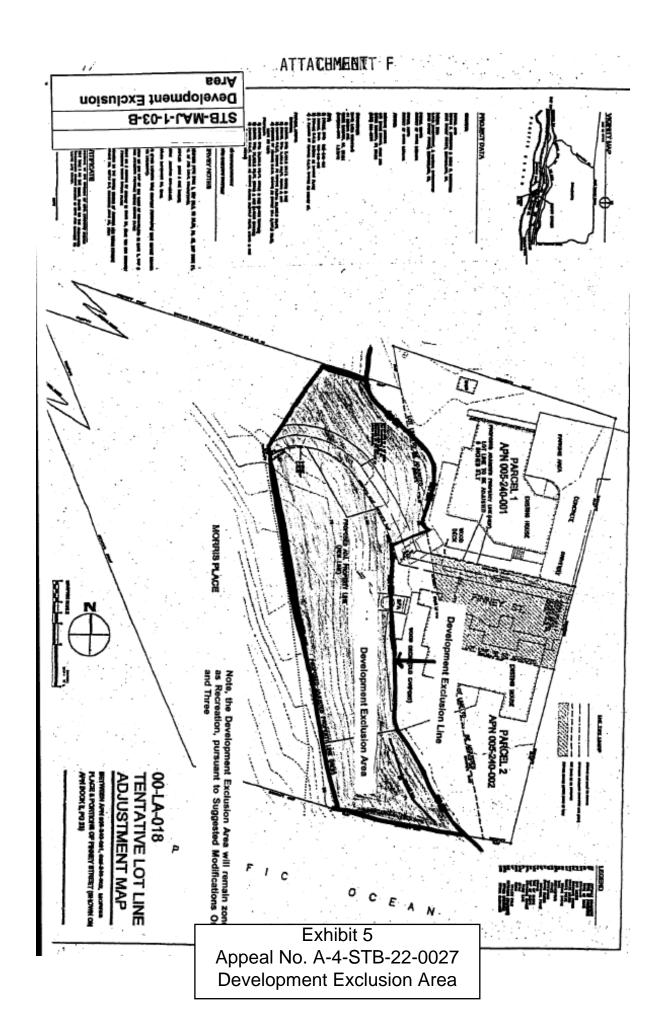




2305 Finney Street







#### CALIFORNIA COASTAL COMMISSION

Filing Information (STAFF ONLY)

SOUTH CENTRAL COAST DISTRICT OFFICE 89 S. CALIFORNIA ST., SUITE 200 VENTURA, CA 93001-4508 (805) 585-1800 SOUTHCENTRALCOAST@COASTAL.CA, GOV



#### APPEAL FORM

Appeal of Local Government Coastal Development Permit

District Office: South Central Coast	
Appeal Number:	
Date Filed:	
Appellant Name(s):	

#### **APPELLANTS**

**IMPORTANT.** Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at https://coastal.ca.gov/contact/#/).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Central Coast district office, the email address is <a href="mailto:SouthCentralCoast@coastal.ca.gov">SouthCentralCoast@coastal.ca.gov</a>. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's <a href="mailto:contact-page">contact page</a> at <a href="https://coastal.ca.gov/contact/#/).

Exhibit 6
Appeal No. A-4-STB-22-0027
Appeal

1. Appellant inf	ormation <sub>1</sub>	
Name:	Lacerte Family Trust, c/o Eric Berg, Esq.	
Mailing address:	3905 State Street, Suite 7-104	
Phone number:	Santa Barbara, CA 93105 805.708.0748	
Email address:	eric@berglawgroup.com	
How did you participate in the local CDP application and decision-making process?  Did not participate Submitted comment Testified at hearing Oth Describe: Representative Eric Berg testified at hearing.		
please identify wh	cipate in the local CDP application and decision-making process, y you should be allowed to appeal anyway (e.g., if you did not se you were not properly noticed).	
-		
why you should be CDP notice and he processes).	w you exhausted all LCP CDP appeal processes or otherwise identify allowed to appeal (e.g., if the local government did not follow proper earing procedures, or it charges a fee for local appellate CDP se see Insert #1, attached.	

<sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

2. Local C	DP decision being appealed	2			
Local government name:  Local government approval body:  Local government CDP application number:  Local government CDP decision:  Date of local government CDP decision:		County of Santa Barbara  County of SB Board of Supervisors 21CDP-00000-00053			
				CDP approval CDP denial	CDP denial3
				May 17, 2022	
		denied by tl	ntify the location and description on the local government.	of the development tha	at was approved or
		Describe:	2305 Finney Street APN (	 	
2305 Finney Street, APN 005-230-008					
	Summerland, California 9				
	Allowance of construction	of a new attached	<u> </u>		
	accessory dwelling unit.				

<sup>&</sup>lt;sup>2</sup> Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

<sup>&</sup>lt;sup>3</sup> Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the <u>appeal information sheet</u> for more information.

3. Applicant information

Applicant name(s): Lacerte Family Trust	
2311 Finney Street	
Applicant Address: Summerland, California 93067	
4. Grounds for this appeal4	
For appeals of a CDP approval, grounds for appeal are limited to allegations the approved development does not conform to the LCP or to Coastal Act public ac provisions. For appeals of a CDP denial, grounds for appeal are limited to allegate that the development conforms to the LCP and to Coastal Act public access proplease clearly identify the ways in which the development meets or doesn't meet applicable, the LCP and Coastal Act provisions, with citations to specific provision much as possible. Appellants are encouraged to be concise, and to arrange the appeals by topic area and by individual policies.	cess tions visions. t, as ons as
Please see Insert #2, attached.	

<sup>4</sup> Attach additional sheets as necessary to fully describe the grounds for appeal.

# 5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

#### 6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Dominique Lacerte,	Trustee, Lacerte Family Trust
Vommique R freute Signature	
Signature V	
Date of Signature 6/2/2022	

#### 7. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>&</sup>lt;sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

# CALIFORNIA COASTAL COMMISSION

Your Name Dominique Lacerte, Trustee Lacerte Family Trust

455 MARKET STREET, SUITE 300 SAN FRANCISCO, CA 94105-2219 VOICE (415) 904-5200 FAX (415) 904-5400



# **DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

CDP Application or Appeal Number 21CDP-00000-00053
Lead Representative
Name Eric Berg
Title Attorney
Street Address. 3905 State Street, Suite 7-104
City Santa Barbara
State, Zip California 93105
Email Address eric@berglawgroup.com
Daytime Phone 805.708.0748
Your Signature 6/2/2022

#### INSERTS FOR COASTAL COMMISSION APPEAL FORM

#### Insert #1

The Lacertes have presented their arguments to Santa Barbara County staff, Santa Barbara County Planning Commission and the Santa Barbara County Board of Supervisors. The record will show that throughout the process they have expressed that the ADU proposal is not consistent with the previously approved Coastal Development Permit and Local Coastal Plan policies

#### Insert #2

#### **Trails**

The project description contained in the record of the 2003 approvals (00-GP-009, 00-LA-018, 02CDH-00000-0004)1. includes the following regarding trails and the need for compliance to the project description and the project approvals:

The applicants are proposing to improve an existing informal trail located across the Carey Place right-of-way located immediately south of Finney Street. The improvements include signage at Wallace Avenue designating coastal access and directing beach goers across a controlled railroad crossing, signage at the trail head where Carey Place meets Finney Street, and minor improvements such as widening and possible placement of at-grade wooden stair steps in steeper portions of the trail which leads to the sandy beach.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of 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 hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

The Coastal Development Permit approved in 2003 was based upon and limited to compliance with the project description and conditions of approval. Deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with the 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.

The record indicates that an element of the previously approved project was to improve a public access trail. There are no plans or approvals for this work contained in the public records for 2305 or 2311 Finney and as such the 2305 Finney is not in compliance with the previously

approved Local Coastal Plan amendment or the associated Coastal Development Permit. The record shows that a Coastal Development Permit was issued for improvements for a public access trail.

#### **Encroachments**

Encroachments onto county land and into the exclusion area as documented in the record of the approval to 00-GP-009, 00-LA-018, 02CDH-00000-00041.

"The single-family unit on 2311 Finney (Parcel 1) was permitted in 1985 with Coastal Development Permit # 85-CDP-130. This residential structure does not encroach on to County property, but an appurtenant improvement (walkway/stairway) does. These stairs are documented on Exhibit 7 and recorded on the property. The record also states these stairs were allowed to remain".

"In 1949, prior to the need for zoning approval, a single-family residence was constructed on 2305 Finney, currently the Mecay property. Subsequently, several additions were constructed also without obtaining proper permits. Therefore, the dwelling is considered an illegal dwelling as portions of the SFD are located on County-owned road right-of-way, portions of the single family use is on land zoned REC, and for the fact that the SFD crosses over property boundaries".

The approval of the lot line adjustment, rezone and general plan cured the issues regarding the crossing over property boundaries and the zoning issue but there was never any subsequent Coastal Development Permit or building permits obtained to bring the illegal additions up to current codes (e.g. building, fire, energy).

Additionally, the lack of follow through (as established by the county records) to ensure that the project is implemented as described in the project description, that conditions of approval, environmental mitigations as well as the changes to the Local Coastal Plan (as approved by the Coastal Commission) were implemented results in a project site not incompliance with the Local Coastal Plan or the approvals of the project.

Moreover, it is inexplicable that building permits were not obtained by Mecay for the illegal construction at all, but especially considering the Real Property Purchase Contract between Mecay and the County of Santa Barbara obligated Mecay to do so. It is common knowledge that a land use permit (Lot Line Adjustment or Rezone) do not convey compliance with the CA building and safety code (et. al.). To this date the property taxes are based on 1,054 square feet of gross building area, not the existing 1,606 square feet disclosed by Mecay in the ADU construction drawings.

#### **Conformity to the Local Coastal Plan**

Government Code Section 65852.2 Section 4 of Article X of the California Constitution, mandates that maximum access and recreational opportunities be provided for all people. One of the means of access to the shoreline is by vehicular travel, which requires the use of public parking spaces.

Section 30211 of the Coastal Act states, "Development shall not interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation." The County is mandated to protect this access, as is detailed in Policy 7-1 of the County's Coastal Land Use Plan, "The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline." Additionally, Coastal Act Section 30223 states that "Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible."

In 2003 a Local Coastal Plan Amendment was proposed and conditionally approved. The LCP amendment was concerning policy CIRC-S-18 which states existing public rights-of-way shall not be abandoned. An exception needed to be made to allow the abandonment of public right a way to resolve violations on 2305 Finney where the house had been enlarged and that enlargement was on public land.

The Coastal Commission (as the staff report records shows) would only approve this change with an offsetting condition. The following language specifically developed by Coastal Commission staff is as follows: Such abandonment may occur in exchange for equal public access benefits which shall include the following: improving two beach access trails within the Summerland Community Plan Area, providing a minimum of 40 public coastal parking spaces along Wallace Avenue, and installing instructional access signage along Wallace Avenue.

A request (including a public records request) was made to the County of Santa Barbara for all materials which demonstrate that this "equal public access" including improving two beach access trails and the provisions of 40 public coastal parking space along Wallace Avenue was completed. To date the county has not provided any documentation that compliance with these conditions has been accomplished. Without these improvements being completed the subject sites remain out of compliance with the Local Coastal Plan and the approved LCP amendment approved 2003/2004.

A condition of approval was to record the conditions of approval. These conditions include an exhibit labeled as "Exhibit 7". Exhibit 7 shows the proposed easement dedication to the county of Santa Barbara that was to be reserved. This exhibit also shows the two stairways that were allowed to remain within the exclusion area. One set of stairs from the exclusion area to the deck on 2311 Finney and the another set of stairs along the spa on 2305 Finney. This exhibit does not document an existing trail going down to the beach.

## Issue regarding this being "just a neighborhood dispute"

While there have been ongoing issues between the two property owners, the record will show that regarding the accessory dwelling unit that the Lacerte objections to the original submittal were valid.

The County's review and approval of the ADU allowed construction specifically prohibited including allowing additional construction into the exclusion area a direct violation of the Local Coastal Plan. The plans were revised addressing some of the issues that the appellant point out via their appeal. The remaining issues concern the project's compliance with the Local Coastal plan including the impediment to the public access to the coast that will be created by the additional housing unit without provision of onsite parking.

#### **Visual Impacts**

Coastal Act Section 30251 requires that visual qualities of coastal areas be protected, landform alteration be minimized, and where feasible, degraded areas shall be enhanced and restored. This policy requires that development be sited and designed to protect views to and along the ocean and other scenic coastal areas. This policy also requires that development be sited and designed to be visually compatible with the character of surrounding areas. New development must also minimize the alteration of natural landforms, and, where feasible, include measures to restore and enhance visual quality where it has been degraded. Furthermore, Policy 4-3 of the certified LUP requires that new development in rural areas be compatible with the character of the surrounding natural environment in height, scale, and design.

Both 2305 and 2311 Finney are visible from an adjacent public trail. Furthermore, 2305 is located on a coastal blufftop visible from the public beach below. The new ADU development does have an impact on these public resources. In accordance with the conditions of the Local Coastal Plan amendment and the recorded conditions of approval any new development was to go to the Board of Architectural Review to ensure that the new development was evaluated for its impact to these resources. This did not occur. Additionally, grading of the slope area was recognized as having a significant adverse impact on visual resources. The private trail cut into the slope is in direct violation of the previously approved project and LCP policies for protection of visual resources.

#### **Access to public resources**

Section 30240 of the Coastal Act further requires that development adjacent to parks and recreation areas be sited and designed to prevent impacts. LUP Policy 2-11 requires that all development adjacent to environmentally sensitive habitat areas be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff. The approval of the ADU was void of any analysis regarding its compliance

with these Local Coastal Plan policies,

There are three existing legal accessways to the shoreline within the vicinity of the project site: Lookout Beach Park, Morris Place (on the east end of Lookout Park) and Finney Street East (east of the Sanitary District Plant). Additionally, Loon Point, approximately one mile downcoast, provides beach access with the Summerland Community Plan Area. The addition of a housing unit (ADU) into this area without accommodating additional onsite parking will result in the reducing the availability of existing parking available to the public wishing to access public shoreline. While this is one unit it will set the precedent that additional ADUs can be built adjacent to the coastline without regarding to the incremental reduction to public access (parking) to the public resource.

#### Lack of Coastal Development Permit and Building Permits for 2305 Finney

The County of Santa Barbara has stated that the lot line adjustment validated all illegal construction. However, the staff report dated January 15, 2003 (page 12) merely states that it cures the non-conforming status of the lot size of and the encroachment of a private residence onto county owner property associated with 2305 Finney.

The Coastal Development permit was deemed necessary to implement construction of the beach trail improvements on Carey Place. It further states that unless specifically exempt, all development located within the Coastal Zone requires issuance of a Coastal Development Permit.

There is no language within the record stating that the illegal expansion of a residential unit was part of the Coastal Development Permit and it was not part of the project description or analyzed as part of the environmental review.

The appellant maintains that the expansion of the single family residence on 2305 Finney was without benefit of a Coastal Development permit and subsequent building permits and as such remains as a violation of the Local Coastal Plan and its implementing ordinance which requires a Coastal Development Permit for development.

#### **IDENTIFICATION OF INTERESTED PERSONS**

County of Santa Barbara Board of Supervisors 123 East Anapamu Street Santa Barbara, California 93101

County of Santa Barbara Planning and Development 123 East Anapamu Street Santa Barbara, California 93101

BMO, LLC c/o Beth Collins, Esq. Brownstein Hyatt Farber Schreck 1021 Anacapa Street Second Floor Santa Barbara, California 93101



# County of Santa Barbara Planning and Development

Lisa Plowman, Director

Jeff Wilson, Assistant Director Elise Dale, Assistant Director

#### NOTICE OF FINAL ACTION

May 27, 2022

CALIFORNIA COASTAL COMMISSION STEVE HUDSON, DISTRICT DIRECTOR 89 SOUTH CALIFORNIA STREET, SUITE 200 VENTURA, CA 93001

Dear Mr. Hudson:

Received

JUN 06, 2022 -dg

California Coastal Commission South Central Coast District

On 5/17/2022, Santa Barbara County took final action on the development described below:

[X] Appealable Coastal Development Permit - 21CDP-00000-00053

Project Applicant:

BMO, LLC ATTN ROBERT MECAY PO BOX 12520

ZEPHYR COVE, NV 89448

Property Owner:

BMO, LLC

ATTN ROBERT MECAY, PO BOX 12520

ZEPHYR COVE, NV 89448

# **Project Description:**

The project is for a Coastal Development Permit to allow construction of a new second story 795-square-foot (gross) attached accessory dwelling unit with 142-square-foot deck. No grading is proposed. No trees are proposed for removal. The parcel is served by the Montecito Water District, the Summerland Sanitary District, and the Carpinteria-Summerland Fire Protection District. Access is provided via an easement off of Finney Street. The property is a 0.35-acre parcel zoned Single-Family Residential (7-R-1) and shown as Assessor's Parcel Number 005-230-008, located at 2305 Finney Street in the Summerland Community Plan area, First Supervisorial District.

Location: The project involves APN 005-230-008. located at 2305 FINNEY ST, SUMMERLAND, CA 93067, Santa Barbara County, California.

#### Coastal Commission Appeal Procedure:

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: <a href="http://www.coastal.ca.gov/cdp/cdp-forms.html">http://www.coastal.ca.gov/cdp/cdp-forms.html</a>

Please contact Willow Brown at (805) 568-2040 or via email at <a href="wbrown@countyofsb.org">wbrown@countyofsb.org</a> if you have any questions regarding the County's action or this notice.

Willow Brown, Project Planner

Date

Exhibit 7
Appeal No. A-4-STB-22-0027
County Notice of Final Action



# County of Santa Barbara Planning and Development

Lisa Plowman, Director

Jeff Wilson, Assistant Director Elise Dale, Assistant Director

May 18, 2022

Mr. AJ Lacerte 2311 Finney Street Summerland, CA 93067

BOARD OF SUPERVISORS HEARING OF MAY 17, 2022

RE: Board Action Letter

Lacerte Appeal of the County Planning Commission Approval of the BMO, LLC Accessory

**Dwelling Unit** 

Case Nos. 22APL-000000-00002 & 21CDP-00000-00053

2305 Finney St., APN 005-230-008

#### Dear Mr. Lacerte:

On May 17, 2022, the Board of Supervisors took the following actions on Case Nos. 22APL-00000-00002 and 21CDP-00000-00053, which is a request to consider the recommendations of staff regarding an appeal of a Coastal Development Permit to allow the construction of a new attached accessory dwelling unit. Supervisor Williams moved, seconded by Supervisor Lavagnino and carried by a vote of 5 to 0 to:

- Deny the appeal, Case No. 22APL-00000-00002;
- Make the required findings for approval of the project, Case No. 21CDP-00000-00053, including California Environmental Quality Act (CEQA) findings included as Attachment 1 to the Board Letter dated May 17, 2022;
- Determine the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305(a); and,
- Grant de novo approval of the project, Case No. 21CDP-00000-00053, subject to the conditions of approval, included as Attachment 2 to the Board Letter dated May 17, 2022.

The attached findings and conditions reflect the Board of Supervisors actions of May 17, 2022.

May 18, 2022 Board Action Letter, Case Nos. 22APL-00000-00002 & 21CDP-00000-00053 Page 2 of 2

This final action by the County may be appealed to the Coastal Commission by the applicant, an aggrieved person or any two members of the Coastal Commission within the 10 working days following the date the County's Notice of Final Action is received by the Coastal Commission.

Sincerely,

LISA PLOWMAN, DIRECTOR

Cc: Planner: Willow Brown

County Planning Commission

Das Williams, First District Supervisor

Attachments: Attachment 1 - Findings

Attachment 2 - Conditions of Approval

## **ATTACHMENT 1: FINDINGS**

# 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 Section 15303(a) [New Construction or Conversion of Small Structures]. Please see Attachment C, Notice of Exemption.

#### 2.0 ADMINISTRATIVE FINDINGS

2.1 Findings required for all Coastal Development Permits. In compliance with Section 35-60.5 of the Article II Coastal 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.

The Board of Supervisors finds that the project is consistent with the finding that adequate services are available to serve the proposed development because the parcel is currently served by the Montecito Water District, the Summerland Sanitary District, the Carpinteria/Summerland Fire Protection District and the Santa Barbara County Sherriff. Access is available via a private easement off of Finney Ave. As discussed in Section 6.3 of the Planning Commission staff report dated October 7, 2021 (Attachment 5), the Planning Commission memo dated November 30, 2021 (Attachment 6), and as discussed in the Planning Commission hearing of December 8, 2021 there will be adequate services to serve the project. The Montecito Water District provided a Certificate of Water Service Availability, dated March 25, 2021 and included as Attachment 6. The Summerland Sanitary District provided a sewer availability letter dated March 22, 2021 and included as Attachment 6 to this Board Letter. The Carpinteria/Summerland Fire Protection District reviewed the project at the Special Problems Committee at the meeting of June 3, 2021 and conditioned the project to have an additional address for the accessory dwelling unit. Additionally, they confirmed in an email dated April 20, 2022 that there is adequate access to serve the project.

- 2.2 In compliance with Section 35-169.5.1 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.1 the decision-maker shall first make all of the following findings:
  - a. The proposed development conforms:
    - To the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan;
    - (2) With the applicable provisions of this Article or the project falls within the limited exceptions allowed under with Section 35-161 (Nonconforming Use of Land, Buildings, and Structures).

Case No. 22APL-00000-00002 Hearing Date: May 17, 2022 Attachment 1, Page 2

The Board of Supervisors finds that, as discussed in Section 6.3 and 6.4 of the Planning Commission staff report dated October 7, 2021 (Attachment 5), the Planning Commission memo dated November 30, 2021 (Attachment 6), and as discussed in the Planning Commission hearing of December 8, 2021, the proposed project conforms to all applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan and Summerland Community Plan, and with all of the applicable provisions of Article II. There are adequate services on the subject parcel, there will be no impact on drainage from the proposed project, the accessory dwelling unit will be set back sufficiently from the bluff, and the project is consistent with the height, living area, and parking standards for accessory dwelling units.

## b. The proposed development is located on a legally created lot.

The Board of Supervisors finds that the subject lot is a legally created lot, created by a Lot Line Adjustment (Case No. 00-LA-018) in 2003.

c. The subject property and development on the property is in compliance with all laws, rules, and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).

The Board of Supervisors finds that the subject property and proposed development is in compliance with all applicable provisions of Article II because, as discussed in Section 6.4 of the Planning Commission staff report dated October 7, 2021 (Attachment 5), the Planning Commission memo dated November 30, 2021 (Attachment 6), and as discussed in the Planning Commission hearing of December 8, 2021, the proposed project is consistent with the height, living area, and parking standards for accessory dwelling units, there are no violations on the parcel, and all processing fees have been paid to date.

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

The Board of Supervisors finds that the proposed accessory dwelling unit will not obstruct public views from a public road or public recreation area to, and along the coast. Finney Street is a private road and does not provide public views to the coast. The proposed accessory dwelling unit will not be visible from Highway 101 due to extensive screening along Wallace Avenue provided by existing hedges and due to topographical changes between the home and Highway 101. The proposed addition will not block views from the beach to the mountains or along the coast due to the location of the home on a coastal bluff elevated above the public beach.

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

The Board of Supervisors finds that the proposed development is compatible with the established physical scale of the area. The neighborhood primarily consists of two-story dwellings of similar massing and size as the subject single-family dwelling including the

proposed ADU. The proposed development on-site meets the Summerland floor area limit. Based on the gross lot area, the maximum square footage for structures allowed on the lot is 3,262 square feet. With the proposed accessory dwelling unit, the total square footage of structures is 2,310 square feet. The accessory dwelling unit is an accessory residential use on a residential property in a residential neighborhood, and meets all other zoning requirements such as height.

f. 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 Board of Supervisors finds that the proposed project will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan. Existing public access to the coast is located approximately 600 feet away at Lookout Park. No existing public access will be impeded by the proposed development. The proposed ADU will be located on private property, and no public access or recreation opportunities exist or are proposed on the subject property.

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### **ATTACHMENT 2: 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 and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

The project is for a Coastal Development Permit to allow construction of a new second story 795-square-foot (gross) attached accessory dwelling unit with 142-square-foot deck. No grading is proposed. No trees are proposed for removal. The parcel is served by the Montecito Water District, the Summerland Sanitary District, and the Carpinteria-Summerland Fire Protection District. Access is provided via an easement off of Finney Street. The property is a 0.35-acre parcel zoned Single-Family Residential (7-R-1) and shown as Assessor's Parcel Number 005-230-008, located at 2305 Finney Street in the Summerland Community Plan area, First Supervisorial District.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

2. Proj Des-02 Project Conformity. The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

#### CONDITIONS BY ISSUE AREA

- 3. Air-01 Dust Control. The Owner/Applicant shall comply with the following dust control components at all times including weekends and holidays:
  - a. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site.
  - b. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, use water trucks or sprinkler systems to prevent dust from leaving the site and to create a crust after each day's activities cease.
  - c. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site.
  - d. Wet down the construction area after work is completed for the day and whenever wind exceeds 15 mph.

- e. When wind exceeds 15 mph, have site watered at least once each day including weekends and/or holidays.
- f. Order increased watering as necessary to prevent transport of dust off-site.
- g. Cover soil stockpiled for more than two days or treat with soil binders to prevent dust generation. Reapply as needed.
- h. If the site is graded and left undeveloped for over four weeks, the Owner/Applicant shall immediately: (i) Seed and water to re-vegetate graded areas; and/or (ii) Spread soil binders; and/or; (iii) Employ any other method(s) deemed appropriate by P&D or APCD.

PLAN REQUIREMENTS: These dust control requirements shall be noted on all grading and building plans. PRE-CONSTRUCTION REQUIREMENTS: The contractor or builder shall provide P&D staff and APCD with the name and contact information for an assigned onsite dust control monitor(s) who has the responsibility to:

- Assure all dust control requirements are complied with including those covering weekends and holidays.
- b. Order increased watering as necessary to prevent transport of dust offsite.
- c. Attend the pre-construction meeting.

TIMING: The dust monitor shall be designated prior to first Building Permit. The dust control components apply from the beginning of any grading or construction throughout all development activities until Final Building Inspection Clearance is issued. MONITORING: P&D processing planner shall ensure measures are on plans. P&D grading and building inspectors shall spot check; Grading and Building shall ensure compliance onsite. APCD inspectors shall respond to nuisance complaints.

- 4. Bio-20 Equipment Storage-Construction. The Owner/Applicant shall designate one or more construction equipment filling and storage areas to contain spills, facilitate cleanup and proper disposal and prevent contamination from discharging to the storm drains, street, drainage ditches, creeks, or wetlands. The areas shall be no larger than 50 x 50 foot unless otherwise approved by P&D and 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 Coastal Development and Building permits. TIMING: The Owner/Applicant shall install the area prior to commencement of construction. MONITORING: Building and Safety staff shall ensure compliance prior to and throughout construction.
- 5. Bio-20a Equipment Washout-Construction. 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 as needed. 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 Coastal Development and Building permits. TIMING: The Owner/Applicant shall install the area prior to commencement of construction. MONITORING: Building and Safety staff shall ensure compliance prior to and throughout construction.

- 6. 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 immediately contact P&D staff, and retain a P&D approved archaeologist and Native American representative to evaluate the significance of the find in compliance with the provisions of the County Archaeological Guidelines and conduct appropriate mitigation 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 issuance of Coastal Development Permit and Building and Safety staff shall spot check in the field throughout grading and construction.
- 7. Monarch Butterfly Survey. Construction, grading, or development shall be prohibited between November 1 and April 1 within 200 feet of Monarch roosting/nesting sites. This requirement may be modified if a report by a P&D-approved biologist indicates that that overwintering monarch roosts have dispersed in late winter/early spring. PLAN REQUIREMENTS: The Owner/Applicant shall note this requirement on project plans. Any study recommending modifications to this condition shall be submitted for P&D staff review and approval prior to the issuance of building permits. TIMING: Construction, grading, or development shall be prohibited between November 1 and April 1 unless a report by a P&D-approved biologist indicates that that overwintering monarch roosts have dispersed in late winter/early spring. MONITORING: P&D permit processing planner shall check plans prior to issuance of Coastal Development Permit.
- 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 4:00 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 MONITORING: The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. 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 either onsite in the driveway and outside of the road and highway right of way, or on Wallace Avenue between the hours of 7a and 4p. No construction parking is permitted in the access easement. 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 Coastal Development Permit. TIMING: A copy of the written notice shall be submitted to P&D permit processing staff prior to issuance of Coastal Development Permit. This restriction shall be maintained throughout construction. MONITORING: Building and Safety 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. SolidW-03 Solid Waste-Construction Site. The Owner/Applicant shall provide an adequate number of covered receptacles for construction and employee trash to prevent trash & debris from blowing offsite, shall ensure waste is picked up weekly or more frequently as needed, and shall ensure site is free of trash and debris when construction is complete. PLAN REQUIREMENTS: All plans shall contain notes that the site is to remain trash-free throughout construction. TIMING: Prior to building permit issuance, the Owner/Applicant shall designate and provide P&D with the name and phone number of a contact person(s) responsible for trash prevention and site clean-up. Additional covered receptacles shall be provided as determined necessary by P&D. MONITORING: Building and Safety staff shall inspect periodically throughout grading and construction activities and prior to Final Building Inspection Clearance to ensure the construction site is free of all trash and debris.

#### COUNTY RULES AND REGULATIONS

- 11. DIMF-24e DIMF Fees-Parks. In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Parks Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid. The total Parks DIMF amount is currently estimated to be \$529 (August 25, 2021). This is based on a project type of other dwelling and a project size of 810 square feet. TIMING: Parks DIMFs shall be paid to the County Parks Department prior to Final Building Permit Inspection and shall be based on the fee schedules in effect when paid, which may increase at the beginning of each fiscal year (July 1st).
- 12. DIMF-24g DIMF Fees-Transportation. In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for transportation. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid. The total DIMF amount for Transportation is currently estimated to be \$1,312 (August 25, 2021). This is based on a project type of other dwelling and generation of one Peak Hour Trip. TIMING: Transportation DIMFs shall be paid to the County Public Works Department-Transportation Division prior to Final Building Permit Inspection and shall be based on the

fee schedules in effect when paid, which may increase at the beginning of each fiscal year (July 1st).

- 13. Rules-02 Effective Date-Appealable to CCC. 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. [ARTICLE II § 35-169]
- 14. 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.
- 15. Rules-10 CDP Expiration-No CUP or DVP. The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Planning Commission Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.
- 16. Rules-23 Processing Fees Required. Prior to approval of Coastal Development Permit, the Owner/Applicant shall pay all applicable P&D permit processing fees in full as required by County ordinances and resolutions.
- 17. Rules-29 Other Dept Conditions. Compliance with Departmental/Division letters required as follows:
  - a. Carpinteria/Summerland Fire Protection District letter dated July 6, 2021.
- 18. 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.
- 19. 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.
- 20. Rules-35 Limits-Except DPs. This approval does not confer legal status on any existing structures(s) or use(s) on the property unless specifically authorized by this approval.

21. Rules-37 Time Extensions-All Projects. 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.



# CARPINTERIA~SUMMERLAND FIRE PROTECTION DISTRICT

#### 2305, Finney, , Summerland, , CA, 93067, , 980 SQFT ADU, yes

ocation 34.419933, -119.599902

Status Planning Completed

Submittal Date: 2021-06-30
Address/Location: 2305 Finney

Summerland, CA 93067

APN: 005-230-008

Comments: 980 SQFT ADU
Submittal Type: Planning

Applicant: Haley Kolosieke
Address 1625 State Street

Santa Barbara, CA 93101

Phone Number: 805-966-2758 X115
Email: haley@sepps.com

#### Planning/Conceptual Design

Date Plan Review Completed: 2021-07-06

Permit Number: 21CDP-0-00053
Planner: Willow Brown

Plans Checked By: Michael
Invoiced Yes
Items Invoiced: FPC-P
Invoices Paid Yes
Invoices Paid: FPC-P

#### **Project Conditions**

All work shall be done per current applicable CFC and CSFPD ordinance and standards.

Access and Identification A minimum of 13 feet 6 inches of vertical clearance shall be provided and

Michael LoMonaco

maintained for fire apparatus.

Building address numbers shall be visible from the street. Numbers shall be a

minimum 4" high 1" stroke on a contrasting background.

Application for address changes for the building shall be submitted to CSFPD

Fire Prevention Bureau

Fire Protection Systems Smoke detectors and Carbon Monoxide Alarms must be installed in all

residences in accordance with the current National Electric Code Per the

provisions of the California Building and Fire Codes.

Additional Requirements Any future changes including further division intensification of use or

increase in hazard classification may require additional conditions in order to

comply with applicable fire district development standards



## CARPINTERIA~SUMMERLAND FIRE PROTECTION DISTRICT

Fees

PURSUANT to Ordinance 599 Chapter 8.26 Section 8.26.030 - Imposition of fire protection mitigation fee of the Carpinteria Municipal Code: The applicant will be required to pay a fee PRIOR TO THE ISSUANCE OF A "CERTIFICATE OF OCCUPANCY" for the purpose of mitigating the increased fire protection needs generated by the development. The amount of the fee is as follows:

ADU Greater than or Equal to 750 Sq.Ft.. A fee of \$0.472 per square foot of the primary dwelling shall be assessed on all ADUs

PURSUANT to CSFPD Ordinance 2019-01 Sec. 2. Imposition of fire protection fees for service: The applicant may be required to pay fees for additional plans reviews and/ or additional field inspections prior to the issuance of a "CERTIFICATE OF OCCUPANCY". The amount of the fee is as follows:

A. Two Hundred Twenty-Four (\$224.00) Dollars for Additional Plan Review Fees will be assessed as additional plan reviews are completed.

B. Two Hundred Ten (\$210.00) Dollars per hour for Field Inspections will be assessed for additional inspections.

Checks shall be made payable to: Carpinteria-Summerland Fire Protection District (CSFPD) and delivered to Fire District Headquarters at 1140 Eugenia Place, Suiti Money orders and cashiers' checks will be accepted. Credit and debit cards can be used online. The link can be found at Carpfire.org Note: Cash payment will no Inspector's Signature:

Signed 2021-07-06 15:19:10 PDT



10 July 2023

California Coastal Commission South Central Coast District Office 89 South California Street, Suite 200 Ventura, CA 93001-2801 Attn: Michelle Kubran

Subject: Coastal Commission Appeal No. A4-STB-22-0027

Local Permit #21CDP-00000-00053

Accessory Dwelling Unit (ADU) at 2305 Finney Street in Santa Barbara

Dear Ms. Kubran.

Our office represents BMO, LLC in their request to obtain approval for an Accessory Dwelling Unit (ADU) on their property at 2305 Finney Street in the County of Santa Barbara. We are writing you with respect to and in response to the appeal filed by the Lacerte Family Trust.

The Coastal Development Permit (CDP) request for the ADU was approved on June 4, 2021 and was subsequently appealed by the current appellant to the Planning Commission (PC). The PC denied the appeal on December 8, 2021 and it was then appealed again to the County Board of Supervisors which unanimously denied the appeal and upheld the CDP approval on May 17, 2022.

We understand that the Coastal Commission will be reviewing this project for a determination of whether the Commission agrees that the appellant has raised a Substantial Issue (SI) with regards to the proposed ADU and its consistency with the Coastal Act and Santa Barbara's Local Coastal Program. The appellant submitted a 12-page appeal document which we have reviewed. It is our understanding that the appellant did not submit any supporting documents.

Our office wishes to address the alleged issues identified by appellant starting on page 7 of the aforementioned document.

#### Trails

The appellant references a section from a prior County permit action (00-GP-009, 00-LA-018, 02CDH-00000-0004) dating back to the early 2000s and alleges that a public access trail was not completed as required in that action. The appellant states that they did a limited search of the County records for two (2) addresses and found no information about a trail.

> Exhibit 8 Appeal No. A-4-STB-22-0027 Correspondence Received

However, no trail improvements were proposed or required to be implemented on the subject property by the applicant pursuant to the permit actions cited. The permit actions referenced by the appellant relate to County approval of a lot line adjustment (00-LA-018), Coastal Development Permit (02CDH-00000-0004) and General Plan Amendment/Rezone (00-GP-009/00-RZ-007) to resolve residential structural encroachments from both the applicant and appellant's property onto County right-ofway for which the County's approval was subject to certain conditions addressing coastal public access improvements. See excerpts below:

#### LLA 00-LA-018 Condition #7 and #8

- 7. The proceeds from the sale of Morris Place and Finney Street shall be specifically designated, consistent with Streets and Highway Code 8357, for beach parking or other coastal access improvements in the Summerland area. Plan Requirement: The proceeds shall be transferred to the County Public Works Department, Roads Division. An appropriate project within a County owned road right-of-way shall be identified through coordination with Planning and Development and Public Works that would provide meaningful mitigation for the loss of publicly owned recreational land currently provided by Morris Place. Timing: Concurrent with the Board of Supervisor's action to abandon and sell Morris Place and Finney Street, the proceeds of the sale shall be designated for the improvement of coastal access in the Summerland area.
- 8. The applicants shall improve two beach access trails to Park Department standards and specifications. Requirements and Timing: Two trail improvement plans (one for Lookout Park and one at a location to be designated by the County in the Summerland vicinity) shall be submitted to Planning and Development and Park Department staff for review and approval. Trail improvement plans shall include the specific alignment, landscaping, fencing, and signage and physical construction requirements. The plan and a performance security, in an amount not to exceed \$15,000.00 shall be submitted prior to recordation of the lot line adjustment. The trails shall be improved prior to approval of any permits for development on either the Mecay or Hotchkiss parcels or within one year of recordation of the lot line adjustment, whichever occurs first. If the applicant is prevented from completing the trail improvements in the specified timeframe due to a third party dispute, the performance security required to ensure the completion of the trail will be used by the County for another public access improvement in the Summerland area and approval of permits for development on both the Mecay and Hotchkiss properties shall not be delayed thereafter. Monitoring: Planning and Development and Parks shall ensure plans and securities are adequate prior to recordation of the lot line adjustment and shall monitor construction of the trail improvements.

In conjunction with lot line adjustment 00-LA-018 the County approved Coastal Development Permit 02CDH-00000-0004 which allowed for, but did not require, "improvements to an existing informal trail located across the Carey Place right-of-way located immediately south of Finney Street" and "signage at Wallace Avenue designating coastal access and directing beach goers across a controlled railroad crossing, signage at the trailhead where Cary Place meets Finney Street, and minor improvements such as widening and possible placement of at grade wooden stair steps in steeper portions of the trail."

However, as noted in Condition 8, in the event the applicants were unable to complete the trail improvements in the specified timeframe due to a third-party dispute, the

California Coastal Commission 10 July 2023 Page 3

County's approval provided that the \$15,000.00 performance security required for the trail improvements could be used by the County for another public access improvement in the Summerland area.

A notice of final action (4-STB-03-064) for 00-LA-018 and 02CDH-00000-00041 was sent to the Coastal Commission's South Central Coast District Office on April 9, 2003 and the Coastal Commission issued a Notification of Appeal Period for 00-LA-018 and 02CDH-00000-00041 on April 16, 2003. No appeal was filed during the appeal rendering the County's approval of 00-LA-018 and 02CDH-00000-00041 final.

Ultimately, pursuant to Conditions 7 and 8, the County became the implementing entity for all public access improvements contemplated in the County's approval. The property owners completed the sale and transferred the funds (\$125,000.00 proceeds from sale of Morris Place and Finney Street and \$15,000.00 performance security for trail improvements) to the County. Further, our client retained copies (see Attachment A) of the checks and transmittals provided to the County for the aforementioned trail and access improvements.

On September 23, 2004, the Coastal Commission approved Local Coastal Program (LCP) Amendment 1-03-B to rezone/redesignate portions of County right-of-way on Morris Place and Finney Street from recreation to residential as means of finalizing the County's resolution for the residential structural encroachments. The Coastal Commission's Staff Report noted the County's prior approval of the lot line adjustment, and the Commission approved the LCP amendment with findings and suggested modifications that memorialized the County's action to allow funds generated from the sale of the Morris Place and Finney Street property and the performance security for trail improvements to be used by the County for implementing the public access improvements.

Coastal Commission Staff Report Recommendations and Findings for Local Coastal Program Amendment 1-03-B:

Therefore, the Commission finds that under these limited circumstances, and as modified in this staff report, that public access and recreation will be protected pursuant to Coastal Act requirements. The existing paper rights of way are not anticipated by the County to be opened at any time in the future because the Finney Street right of way is land-locked by other legal, existing residential development. As a result, the potential for future trails which would connect to this right of way is considered extremely unlikely. In lieu of the land-locked easement, equal public access benefits shall be provided in the immediate vicinity in the form of a minimum of 40 new parking spaces, coastal access signage, and other minor access improvements along two existing, nearby vertical public accessways (see Exhibit 8b for potential trail improvements at Morris Place), as described in Suggested Modification 2.

LUP Policy 7-9(d) specifically states, "Morris Place shall be managed as part of Lookout Park. The area shall be kept in its natural state as much as possible. A footpath from the parking area in the park to the beach shall be provided." Though a majority of Morris Place will be retained as part of Lookout Park including the public trail, a portion has been sold into private ownership. The County sold the adjusted area of the Morris Place and Finney Street rights of way for \$125,000 (\$6.64 per sq. ft.). The proceeds from the sale of Morris Place and Finney Street are specifically designated for beach parking or other coastal access improvements in the Summerland area. The site has already been transferred from public to private ownership pursuant to the Lot Line Adjustment described in Section C "Prior County Action," above. Additionally, the purchasers were required to provide \$15,000 for public access improvements to mitigate the impact to public access. The proceeds will be used for access improvements in the vicinity. including Morris Place and Finney Street East. As stated previously, the Morris Place accessway would continue to be owned by the County and managed as part of Lookout Park consistent with LUP Policy 7-9. Therefore, the public benefit associated with operating Morris Place as part of Lookout Park will not be compromised.

The Coastal Commission's approval of LCP Amendment 1-03-B modified Policy CIRC-S-18 of the Summerland Community Plan per Suggested Modification 2 to identify the specific public access improvements to be carried out by the County:

#### 2. Summerland Community Plan

Policy CIRC-S-18: Existing public rights-of-way shall not be abandoned. However, an exception may be made in the case of Assessor Parcel No. 005-240-001 and Assessor Parcel No. 005-240-002. Such abandonment may occur in exchange for equal public access benefits which shall include the following: improving two beach access trails within the Summerland Community Plan Area, providing a minimum of 40 public coastal parking spaces along Wallace Avenue, and installing instructional access signage along Wallace Avenue. As a condition of rezoning part of Assessor Parcel No. 005-240-001 and Assessor Parcel No. 005-240-002 from recreational and open space use to residential use, the property owner(s) shall sign a written agreement acknowledging and agreeing that new development (including any modification of trees such as trimming or limbing, grading, and fences) shall be prohibited in the designated exclusion area as shown on Exhibit 7. The existing stairways may remain. The designated exclusion area requirement shall run with the land and all present and future owners shall be subject to the prohibition of additional development.

The County also codified their commitment to future improvements in the Summerland Community Plan:

"Action CIRC-S-17.2: In the case of the Morris Place ROW and a portion of the West Finney Street ROW adjacent to Assessor Parcel No. 005-240-001 and Assessor Parcel No. 005-240-002, as shown in Exhibit 7 of the California Coastal Commission Staff Report for Santa Barbara County Amendment No. 1-03-B, ROW abandonment may occur in exchange for equal public access benefits which shall include all of the following: improving two beach access trails, within the Summerland Community Plan Area, providing a minimum of 40 public coastal parking spaces along Wallace Avenue, and installing instructional access signage along Wallace Avenue ... "

and:

**Action CIRC-S-15.1:** The County shall improve two beach access trails within the Summerland Community Plan Area, provide a minimum of 40 public coastal parking spaces along Wallace Avenue, and install instructional access signage along Wallace Avenue. Additionally, the County shall study the feasibility of improving beach access and parking along Wallace Avenue, including, but not limited to:

• developing a trail adjacent to the Union Pacific Railroad tracks, which would tie into Padaro Lane and the City of Carpinteria planned bicycle route to the south, as depicted in Figure 15 (Parks, Recreation, and Trails/Open Space)

As detailed above, the applicant complied with all obligations set forth in the County's approval of lot line adjustment (00-LA-018), Coastal Development Permit (02CDH-00000-0004) and General Plan Amendment/Rezone (00-GP-009/00-RZ-007) and the subject property remains in compliance with the Commission's approval of LCP Amendment 1-03-B. As such, the appellant's stated issues regarding public access trail improvements are wholly inapplicable to the proposed project do not raise a substantial issue with respect to the project's consistency with the County's certified LCP.

#### **Encroachments**

The appellant claims that the applicant should have obtained building permits and a coastal development permit at the time the Lot Line Adjustment was approved.

The applicant has raised this issue in prior appeals at the local level. The County of Santa Barbara is the proper permit authority for determining when a building code violation exists and when a permit is required. In this instance, County Planning & Development has previously determined, following local appeals at the Planning Commission and at the Board of Supervisors, that the subject property does not have any outstanding Coastal Development Permit conditions requiring building permits, that the structure is in its permitted configuration and is considered legal. The matter of building permits is not a Substantial Issue for consideration by the Coastal Commission. Contrary to the appellant's statement and as stated in the staff report to the Board of Supervisors in the appeal hearing, the County Planning & Development reviewed the conditions of the Lot Line Adjustment under a Final Map Clearance and acknowledged that the project satisfied the conditions of approval prior to recordation of the map.

The appellant has provided no evidence that additions were made to the residence after January 1, 1977 that would have required a Coastal Development Permit. In addition, a notice of final action (4-STB-03-064) for 00-LA-018 and 02CDH-00000-00041 was sent to the Coastal Commission's South Central Coast District Office on April 9, 2003 and the Coastal Commission issued a Notification of Appeal Period for 00-LA-018 and 02CDH-00000-00041 on April 16, 2003. No appeal was filed rendering the County's approval of 00-LA-018 and 02CDH-00000-00041 final, which effectively legalized the existing lot and development thereon.

The appellant further alleges that an unpermitted trail to the beach exists on the subject site. County Zoning Enforcement opened an enforcement case and visited the site several times at the request of the neighboring resident (the appellant) to investigate whether there was illegal unpermitted development and to investigate allegations of an illegal beach access. Staff concluded based on site inspection and a review of historic and current aerial photos that no new structural elements had been installed to denote a trail or new beach access and further that no sensitive plant vegetation had been removed. Enforcement staff has also concluded that there is no illegal unpermitted development on the property and no building code violations. No new structural elements were found on the applicant's property and the applicant's enforcement case was subsequently closed.

#### Conformity to the Local Coastal Plan

The appellant again refers to components of a series of actions dating to the early 2000's and claims that, because the County has not provided evidence of accomplishing elements identified in the Summerland Community Plan that the subject sites are out of compliance with the Local Coastal Plan.

However, the appellant and applicant parcels (which were each a part of the LLA action) are not "out of compliance" with the Local Coastal Plan. As stated previously, the applicants completed their sale and paid the County for both the property exchange and for the trail improvements. As provided above, the County documented their coastal access improvement goals for the Summerland Community Plan and in any case the burden to complete them no longer lies on the owners of the properties involved in the 2003 LLA.

This argument is not relevant to the current application for an Accessory Dwelling Unit on the subject property and is not a substantive issue on which to base an appeal.

The appellant claims that an exhibit from this same era does not document, "an existing trail going down to the beach". However,

- 1) The County of Santa Barbara investigated the trail in question and concluded that there was no removal of sensitive habitat nor structural alterations requiring a permit and that there was no violation on the applicant's property.
- 2) The trail proceeds westerly, is not located on the coastal bluff and does not go to the beach.
- 3) The 2003 LCP Amendment of Policy CIRC-S-18 of the Summerland Community Plan acknowledges "existing stairways [on the property in the exclusion area] may remain".
- 4) The low gate (see accompanying photo) providing access from the applicant's yard to this trail is not new, and the trail is not new. The applicant was obliged to begin reusing this trail when their previous access to the open space, which they had used for decades, was obstructed by the appellant. In a repeating theme, the appellant recently abated a three-year old enforcement case with the County of Santa Barbara on their own property for illegally constructing fencing and other improvements within the open space.

Further, the proposed project was thoroughly analyzed by the County. In addition to the Coastal Development Review by staff and the subsequent review and approval by the Director, Planning Commission and Board of Supervisors, the project went before the Special Problems Committee in June 2021, as required for discretionary projects in this portion of the County of Santa Barbara. This committee consists of staff from various public offices and agencies including the County Water Agency, Air Pollution Control District, County Building & Safety, County Environmental Health Services, Carpinteria Fire Department and County Roads. The only comment from this committee was a requirement from Carpinteria Fire Department that the ADU be addressed separately from the main dwelling.

#### Visual Impacts

The applicant claims that the proposed ADU is in conflict with coastal visual policies. However, the adopted Coastal Zoning Ordinance (Article II) for SB County specifically addresses Coastal Resource Protection in its ADU section including:

#### 5. Coastal resource protection.

- a. All development associated with the construction of an accessory dwelling unit shall be located in compliance with the requirements of Section 35-97 (ESH Environmentally Sensitive Habitat Area Overlay District) and all applicable ESH policies and provisions of the certified Local Coastal Program.
- b. Accessory dwelling units shall not significantly obstruct public views from any public road or from a public recreation area to, and along, the coast.
- c. Accessory dwelling units shall not obstruct public access to and along the coast or public trails.

This was considered by the County in granting the CDO approval. As shown in the accompanying evidence, nearly every house on the west side of Finney Street has a second-story component, including the appellant's property. At 1,638 SF (1,1515 SF net), the applicant's home is one of the smallest, if not the smallest house on the street. With the addition of the ADU, the applicant's home (2,443 gross SF) gross will be approximately the same size as the appellants (2,459 SF w/garage, per County Assessor).

Photographs from the beach and from Lookout Park towards the property are included as Attachment B and, along with the project plans in Attachment C, demonstrate that the modest sized ADU will not significantly alter or obscure important public views (e.g., mountain or ocean) from the beach or nearby trails nor significantly alter the character of the area, as was previously determined by the County

In following State Law regarding ADUs, the County of Santa Barbara exempts ADUs from design review hearings, as detailed in two Coastal Zoning Ordinance sections:

#### Section 35-184.3 Exceptions. (Amended by Ord. 3853, 03/20/1990; Ord. 3978, 02/21/1992)

- Exceptions to Design Review Requirements. Board of Architectural Review approval is not required for the following:
  - Accessory dwelling units approved in compliance with Section 35-142 (Accessory Dwelling Units).

Section 35-142.4.2:

2. **Hearing Requirements.** An application for a Coastal Development Permit for an accessory dwelling unit shall be considered without a hearing.

The County further addresses this in the ADU section of the adopted Coastal Zoning Ordinance by requiring that ADUs attached to an existing residence be architecturally compatible with the existing residence:

#### 4. Appearance and style.

- a. The exterior appearance and architectural style of the proposed accessory dwelling unit shall be in compliance with the following:
- 1) The design of an accessory dwelling unit that will be attached to an existing building reflects the exterior appearance and architectural style of the existing building and uses the same or comparable exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features.

As can be seen in the project plans prepared by Bill Wolf of Pacific Architects, Inc, the proposed ADU was designed to be architecturally compatible with the existing residence and County staff made this determination during the review of the project.

#### Access to Public Resources

The appellant claims that the County did not provide any analysis on potential impacts on sensitive resources. However, the County Staff Report to the Planning Commission (on the appeal) provides a policy consistency analysis on pages 10-15 including sensitive resources. Furthermore, the appellant does not acknowledge in their appeal that the ADU is proposed to be located on top of the existing residence with no portion of the living area of the ADU extending beyond the footprint of the existing development which avoids potential impacts from the proposed development on adjacent sensitive resources.

As identified in the Commission's Staff Report for LCP Amendment 1-03-B, a seasonal drainage forms a canyon in the coastal bluff immediately upcoast of the project site. The eucalyptus stand within the seasonal drainage has been identified as an autumnal aggregation site for Monarch butterflies and therefore meets the definition of Environmentally Sensitive Habitat Area (ESHA) per the certified LCP. As required by the LCP, the ESHA within the drainage will be protected in-place as the proposed project does not involve any development within the designated exclusion area established by the LCP Amendment 1-03-B to protect the ESHA. The proposed ADU will be located within the existing footprint of the existing development.

As such, the project does not involve expansion of development toward the adjacent drainage ESHA and therefore will not require expansion of any fuel modification requirements into the exclusion area beyond that currently required and allowed for the existing residential development per Carpinteria Fire Department Vegetation Management standards. Further, the existing residence is located 63 ft. from the bluff edge and the proposed ADU addition above the existing residence will be located entirely within and further inland of the existing residence footprint and thus avoid disturbing any portion of the bluff face and bluff setback.

The appellant claims that approving the ADU will incrementally reduce availability of the public wishing to access the coast by setting a precedent. However,

- 1) ADUs have already been approved in the Coastal Zone. This project does not set a precedent.
- 2) To facilitate their approval, the State of California has specifically limited the amount of parking that local authorities may require for an ADU. No spaces are required in this instance per the Coastal Zoning Ordinance for Santa Barbara County and adopted by the Coastal Commission.
- 3) Finney Street has no public access to the beach and an ADU in this location will not affect public beach access.
- 4) In practice, the subject site has three (3) parking spaces because of an additional informal space on the property.

We also note that the appellant has recently (May, 2022) filed a CDP application with the County to convert their existing two-car garage to living space. This leads us to believe that maximizing public access to coastal parking or any parking is not a serious concern for the appellant.

#### Lack of Permits for 2305 Finney

The appellant repeats a claim made earlier in their appeal. However, County clearly intended for the action on the LLA, General Plan Amendment and Rezone to address the permitting:

2.1.6 The subject properties are in compliance with all laws, rules and regulations pertaining to zoning uses, setbacks and any other applicable provisions of this Article or the Lot Line Adjustment has been conditioned to require compliance with such rules and regulations and such zoning violation fees imposed pursuant to applicable law have been paid. This finding shall not be interpreted to impose new requirements on legal non-conforming uses and structures under the respective County Ordinances: Article II (Section 35-161. and 35-162.), Article III (Section 35-306. and 35-307.), and Article IV (Section 35-476. and 35-477.).

Although Parcel 2 is legal non-conforming parcels as to size and the structure is considered a legal non-conforming building because it was built without permits on a portion County owned land, the purpose of the project is to remedy the situation.

California Coastal Commission 10 July 2023 Page 10

The County subsequently approved the project, the follow-on condition compliance effort and map clearance case were completed, and the LLA was recorded. As discussed previously, the County enforces the California Building Code and is therefore the arbiter of when a building permit is required. County P&D have stated repeatedly throughout the appeal processes that there are no permit violations on the **applicant's** property and that no building permits are required.

In summary, the appellant's claims are almost exclusively based on issues unrelated to the proposed ADU. The claims instead revolve around a decades old land action where the applicant complied with all conditions of approval, as evidenced by the completion of the sale, the additional payments by the applicant to County Parks and Public Works, the updated Summerland Community Plan and the recordation of the Lot Line Adjustment. None of the claims from the appellant regarding this typical ADU attached to modest residence amount to a Substantial Issue.

As discussed herein, the County legally and factually supported its analysis that the project complies with all applicable LCP policies and the public access policies of the Coastal Act. The project is narrow in scope, limited to an addition of an ADU entire within the existing residence footprint, and will not result in adverse impacts to significant coastal resources. In addition, the project is fully consistent with the County's certified LCP and Coastal Zoning Ordinance and therefore will not set an adverse precedent for future interpretations of the County's LCP. Further, given that the design and limited scope of the project will serve to protect coastal resources in the project area, the County's approval of the project does not raise a substantial question regarding issues of local, regional or statewide significance.

We believe that we have thoroughly responded to the issues raised by the appellant in their appeal to your Commission. If you have any questions or would like to discuss any of the issues in further detail, we would be pleased to arrange a site visit, meeting or phone call at your convenience. I can be reached at (805) 966-2758 x111.

Sincerely,

SUZANNE ELLEDGE

PLANNING & PERMITTING SERVICES, INC.

Sweet

Steve Welton, AICP Principal Planner

Attachments:

A: Performance Security Check & Transmittal Reproduction

B: Photographs

C: Project Plans date November 12, 2021

### Attachment A

#### **TRANSMITTAL**

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21 April 2005

TO:

Mr. Bret Stewart

County of Santa Barbara Public Works Department 123 E. Anapamu Street Santa Barbara, CA 93101

SUBJECT: Mecay Hotchkiss - Final LLA Clearance

(00-LA-018, 00-GP-009, 00-RZ-007)

#### ENCLOSED HEREWITH IS THE FOLLOWING

One (1) Check #1415 in the amount of \$3,000.00 (for Wallis Ave. Improvements)

### ( ) For your records ( ) Please sign and return (x) For your use ( ) Please review and call me ( ) Per your request ( ) For your payment

OVERNIGHT ( ) BY-HAND (x)

COMMENTS: Bret, attached is the check for the Wallis Avenue improvements/re-stripping. Please provide a memo to Planning & Development stating that your department' condition has been met. Should you have any questions, or require additional information, please call our office at 966-2758.

PICK-UP ( )

Sincerely,

SUZANNE ELLEDGE

MAIL ( )

PLANNING & PERMITTING SERVICES, INC.

Suzanne Elledge

Principal

# UZANN L L E D G E

TRANSMITTAL

DATE:

21 April 2005

TO:

Mr. Claude Garciacelay County of Santa Barbara

Parks Department 123 E. Anapamu Street Santa Barbara, CA 93101

SUBJECT: Mecay Hotchkiss - Final LLA Clearance

(00-LA-018, 00-GP-009, 00-RZ-007)

## ENCLOSED HEREWITH IS THE FOLLOWING

One Check #1414 in the amount of \$15,000.000 (1) One Lookout Park Trail Improvement plan (1)

#### MAIL ( ) OVERNIGHT ( ) BY-HAND (x) PICK-UP ( )

( ) For your records

( ) Please sign and return

(x) For your use

( ) Please review and call me

( ) Per your request

( ) For your payment

COMMENTS: Claude, attached is the check for second trail improvement and the plan for the Lookout Park improvement. Please provide a memo to Planning & Development stating that your department's condition has been met. Should you have any questions, or require additional information, please call our office at 966-2758.

Sincerely,

SUZANNE ELLEDGE

PLANNING & PERMITTING SERVICES, INC.

Suzanne Elledge

Principal

DOLLARS included. Back. 1414 94-7074 657 3212 1\$16,000 DOLLARS (1) Breuity Fastures 1415 5000 E \$ 1 94-7074 3212 557 DATE\_ 166876II 11 00 14 15 11 4 12 13 2 12 2 70 74 21 53 30 BMO PARTNERSHIP 110 COUNTRY CLUB DR. INGLINE VILLAGE, NV 89451 776 Tahoe Boulevard Incline Village, NV 89451 Wells Fargo Bank, N. A. BMO PARTNERSHIP 110 COUNTRY CLUB DR. INCLINE VILLAGE, NV 89451 776 Tahoe Boulevard Incline Village, NV 89451 PAY TO THE ORDER OF Wells Fargo Bank, N. A. wellsfargo.com PAY TO THE ORDER OF FOR

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wellsfargo.com

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### Attachment B

# Views of 2305 & Trail Access





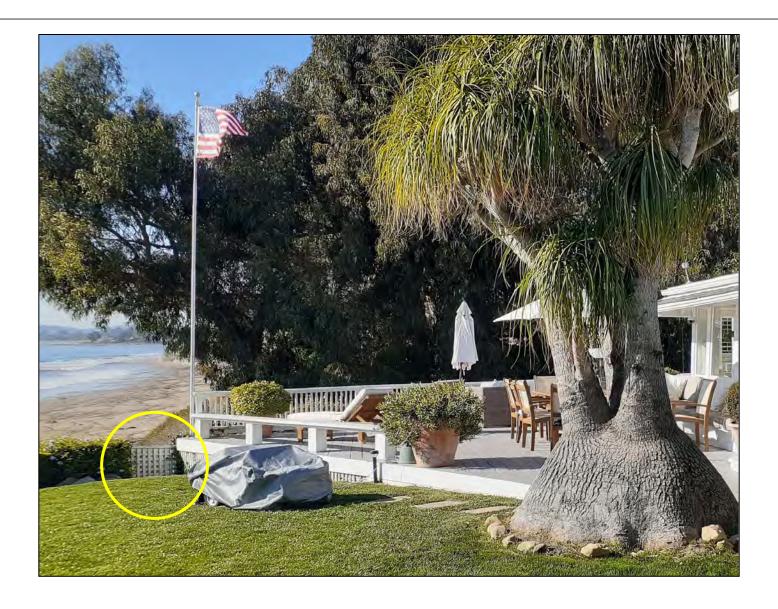




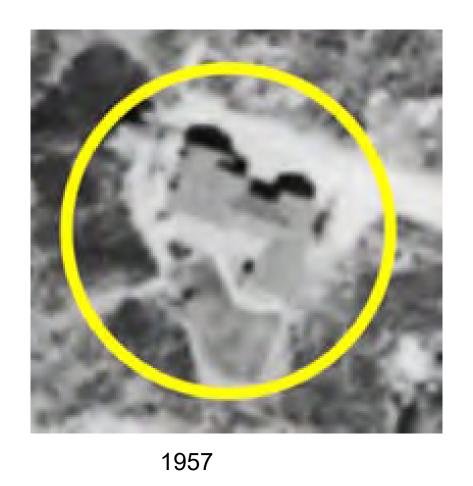




## EXISTING GATE



## Historic Aerials Showing Gate Access





1958

# VIEWS FROM LOOKOUT PARK

2305 Finney Street





2305 Finney Street







### Attachment C



PACIFIC ARCHITECTS

1117 COAST VILLAGE RD. MONTECITO, CA 93108 8 0 5 5 6 5 3 6 4 0

> INEY 8T. -AND, CA 48067









Sheet o

**WM-8** 

Concrete Waste Management

Description and Purpose Prevent or reduce the discharge of policy

Concrete is used as a construction material in where contrete dust and debris result form demolition artistates

Starries containing portland consent concrete (PCC) or applial courses (AC) are generated, such as from ser-cetting, coring, grinding, growing, and bules-consent density.

Limitations

Offsite washood of concrete wanter may not always be possible.

Implementation
The following steps will help reduce stormwater pollution from concrete water

Store dry and wer materials under cover, away from drainage areas.

· Perform washout of enserve typeks offsite or in designated areas only.

· Do not wash out concrete trucks into storm drains, open ditches, streets, or streams Do not allow excess constrete to be dumped onsite, except in designated areas.

Wash our warter into the temporary pit where the concrete can set, be broken up, and then disposed properly.

Aread creating runoff by draining water to a becomed or level area when washing concrete to remove fine particles and expose the aggregate.

Do not wash recognings from exposed aggregate concrete into the street or storm drain.
 Collect and return receptings to aggregate have stockpile or dispose in the trush.

fucution

Lévaire employee, subcontractors, and suppliers on the concepte waterminingement techniques described herein.

PCC and AC waste should be collected and disposed of or placed in a temperary concrete

A sign should be installed adjacent to each temporary concrete weakout facility to inform ourcrate equipment operators to origin the proper facilities.

Avoid mixing enters amounts of fresh concrete

Discuss the concrete management techniques described in this BMP (such as handling of concrete wasts and washout) with the ready mix concrete supplier before any deliceries as made.

See also NS-0, Vehicle and Equipment Cleaning

WM-8

· For easity washout:

Finatic iming material should be a minimum of so mil polyethylene sheeting and should be tire of loles, tears, or other defects that compromise the impermeability of the material. Removed of Temporary Concrete Washoot Facilities

• What supporary concrete washoot facilities are a longer sequired for the work, the
hardment concrete should be removed and disposed of. Materials used to emutrace
tampency concrete washoot feel/files should be removed from the site of the work and
disposed of.

CASQA

 Heles, deprecions or other ground disturbance caused by the removal of the temporary concrete scales of facilities should be backfilled and removed. Costs
All of the above are less root measures. inspection and Maintenance

Import and weith that arisin; based \$30Ps are in place point to the enumeronement
amounted entries. While arisins associated with the \$30P are under very inspectuting the raise resum and of two week intervals in the non-crising season to weithy
continued \$20P implementation.

Temporary concrete washord facilities should be maintained to provide adequate helding especies with a minimum freshould of a in for above grade facilities and or in for below grade facilities and maintaining temporary concrete washord brillities should induce executing and disposting of hardmard concrete and returning the facilities to a functional condition. Heldeston concrete markets the facility of the concrete and concrete and contract and conditions. Heldeston concrete markets the facility of the concrete and disposal of.

We don't lacifies must be classed, or new facilities must be ensenword and ready for one case the wallout is 75% full.

reprinci for a Clean Bay: Best Management Practices to Prevent Stormwater Pollution Irom. antivarion Edited Activities: Santa Class Valley Magainst Source Pollution Council Program

Stormyater Quality Handbooks - Countraction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (California Department of Transportation (California).

Stormwater Management for Construction Articless; Developing Polistion Systematics Management Francisco, EPA 053-W-00000; USEPA: April 1002.

minimum width of 10 ft, but with sufficient quantity and volume to ecotain all liquid and concepts wants generated by weakout operations.

Straw bales, wood stakes, and sandhag materials should conform to the provisions in SE-o, Straw Bale Barrier.

Temporary concrete washout facilities (type below grade) should be constructed as shown on the details at the end of this EGP, with a recommended minimum length and minimum width of a 0 ft. The quantity and minimum should be sufficient to contain all liquid and outsettle wants generated by washout operations.

Lath and flagging should be commercial type:

SECTION B-B RATE INC ACTUAL LAVOUR DETERMINED Z X 12 ROUS ALL SHOWN

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WM-8 WM-8 Concrete Waste Management WM-8 Concrete Waste Management

17.25%

Concrete Waste Management Concrete Waste Management WM-8 Concrete Waste Management

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CENTRE STATE /RANGE MAR MATTERNATION METAL STANCE ACTUAL CAYOUT DETERMINED SECTION B-B THE CONTRET MINOUS SON

WM-8

A fravense or construction supervisor should monitor onsite concrete working tasks, such as saw cutting, cooling, grinding and growing to ensure proper methods are implemented.

overances
Temporary concrete waihout facilities should be located a minimum of 30 ft from storm
deain talest, open drainage facilities, and watercourses. Each facility should be located awa
from construction traffic or access areas to prevent disturbance or tracking.

Temporary various facilities should have a temporary pit or between insured sentences without to conjustedly contains all liquid and waste concrete materials generated during washong procedures.

Washort of supporte trucks should be performed in designated away only.

■ Only concrete from miner truck choice should be washed into concrete wash out.

 Once concerts wastes are washed into the designated area and allowed to harden, the concrete should be broken up, removed, and disposed of per VNL-2. Solid Waste Management. Dispose of hardened concrete on a replain basis. Temperary Concrete Washout Facility (Type Above Goade)

WM-1 Material Delivery and Storage Material Delivery and Storage WM-1

CASQA

WM-1 WM-1

Material Delivery and Storage

These percedures are suitable for use at all construction sites with delivery and storage of the following materials:

· Petroleum products such as feel, oil, and grouss

Limitations

Space limitation may preclude indoor streage.

Implementation
The following steps should be taken to minimize risk:

Armid transport near drainage paths or waterways Surround with earth because See EC-s, Earth Dikes and Dramage Secules.

Place in an area which will be paved.

Galangein

Hazardous chemicals such as acids, lime, gloss, adhesives, paints, solvents, and euring compounds

. Other materials that may be detrimental if polessed to the environment

· Storage their other most meet building and fire code requirements.

· Temporary storage area should be located away from vehicular truffic.

Material Safety Data Shoem (MSDS) should be rupplied for all materials exceed.

Construction are areas should be designated for universal delivery and stronge.

Material delivery and storage areas should be located near the construction entrances, sever from witerways, if possible.

Storage of reactive, ignitable, or flammable liquids must comply with the fire codes of you area. Contact the local Fire Marshal to review are materials, quantities, and proposed, storage area to determine specific requirements. See the Flammable and Combustible Liquid Code, NTPAqu.

. As up to date inventory of materials delivered and stoord cause should be kept

 Handou materials should be handled as infromently as possible During the rainy season, remider storing materials in a covered area. Store m secondary containments such as earthen dike, horse brough, or even a children for non-centre materials such as detergents, oil, grease, and paints. Small as material may be secondarily contained in "has bey" two or ensures missing to

· Applialt and concepts temperate

· Soil stabilizers and binders

· Perticides and herbicides • Perlines

A Determent

· Plater

Coastal Numerica Profession Coursed Programs Programs Development and Appeared Guidance, Working Group Working Paper; USEPA, April 1992.

Stormwater Quality Handbooks - Construction Site Best Management Fraction (EMPs) Manual, State of California Department of Tramportation (Calmana, November 2000)

western int for a Geom Bay: Best Minagement Printines to Present Stemmenber Polistics and Market American Committee Vision Committee Steppoint Searce Polistics Committee

Material Delivery and Storage

Bagged and board materials should be stared on pallets and should not be allowed to accumulate on the ground. To provide protection from wind and sain throughout the tunor means, bagged and board materials should be covered during non-working days and prior to and fluing min events.

. Stockpiles should be presented in accordance with WM-3, Stockpile Management. Froper storage instructions should be posted at all times in an open and comparents location.

 An ample supply of appropriate spill clean up material should be kept near storage areas. Also see WM-6, Hazardous Waste Management, for storing of hazardous materials.

Arrange for employees trained in emergency spill this promotes to be present when dangerous materials or logist chemicals are unloaded.

Properly remove and dispose of any hierardinas materials or contaminated and if significant residual materials remain on the ground after construction is complete. See VOA-7, Contaminated Soil Management.

See 1036-a. Spill Prevention and Control, for spills of elemicals and/or hazardous materials.

Cost

The largest cost of implementation may be in the construction of a materials strange area
that is covered and provides secondary continuous.

Inspection and Mainfernance.

• Impect and voidy that artisty—hand DMPs us in place point to the remainment amounted maintained and the artisty—hand DMPs us in place point to the remainment amounted artistics. Valid artistics amounted with the EVP are under var, impact duting the raine season and of two—well intervals in the ten-paint season to verify proximate DMP implementations.

Even storage areas clean, well organized, and sympped with ample cleanup supplies to appropriate for the materials being stored.

Repair or replace perimeter controls, containment structures, everys, and liners as moded to maintain proper function.

. Even an ample repuly of roll cleanup materials near the storage area.

Naterial Delivery Practices

Esep an accurate, up-to-date inventory of material delivered and stored emile.

Spill Cleanup

Contain and rives up any spill immediately.

Stormwater Management for Construction Artivities; Developing Polistics; Prevention Plans and Sect Management Francisc, EPA Sys-X-octoo; USEPA, April 1900.

Material Delivery and Storage

Do not store chemicals, drims, or bugged materials directly on the ground. Place these leurs on a pallet and, when possible, in secondary containment.

If from must be kept uncovered, store them at a slight angle to reduce pending of pairwates on the life to reduce corrosion. Demed glastic-covers are inexpensive and map to the top of

Chemicals should be kept in their original lab

 Employees and subcontractors should be trained on the proper material delivery and storage securios. Employees trained in smergeury spill cleanup procedures must be present when dangered materials or liquid chemicals are unleaded.

A temporary containment facility classed be maintained free of accumulated rainwater and spills. In the event of grills or balos, accumulated rainwater and spills should be ordered and planel time forwars. These injusts should be hardle in a hazardous rate under temporary determines them to be non-hazardous. All collected liquids or non-hazardous liquids should be sent to many property dispeased they

Sufficient separation should be provided between strend containers to allow for spill cleaning and emergency response seven.

Incompatible materials, such as chlorine and ammoula, should not be stored in the same temporary containment facility.

Differed Determance (MP Handle Constitution)

Concrete Waste Management

Concrete Sharry Wantes

• PC and AC waste simils not be allowed to outer storm drains or waters

Below grade concrete washoost facilities are typical. Above grade facilities are used if ensuration is not practical.

Saw-out PCC slurry should not be allowed to enter storm drains or watercourses. Residue
from princing operations should be picked up to means of a various attachment to the
grinding machine. Saw corting results should not be allowed to fine around the provision
and denich set be left on the nutber of the presents. See also 755-3, Fiving and Grinding
Operation, and 195-10, Liquid Vistor Management.

Onsite Temporary Concrete Washout Facility, Transit Truck Washout Procedures

A sign should be installed adjacent to each washout facility to inform concepts equipment operators to stillne the proper facilities.

Treaperary concrete washoot furifities should be constructed above grade at helow grade at
the option of the contractor. Temporary concrete washoot furifities should be constructed
and maintained in militiesed quantity and size to contain all layed and concrete waste
generated by washoot specifician.

Concrete wealout from concrete pumper bine can be washed into concrete pumper trucks and discharged into designated washout area or properly disposed of offsite.

Temporary concrete washout facility (type slove grade) should be constructed as shown on the details at the end of this BMP, with a recommended minimum length and

BEST MANAGEMENT PRACTICES FOR CONSTRUCTION ACTIVITIES: ERODED SEDIMENTS AND OTHER POLLUTANTS MUST BE RETAINED ON SITE AND MAY NOT BE TRANSPORTED FROM THE SITE VIA SHEET FLOW, SMALES, AREA DRAINS, NATURAL DRAINASE

STOCKPILES OF EARTH AND OTHER CONSTRUCTION RELATED MATERIALS MUST BE PROTECTED FROM BEING TRANSPORTED FROM THE SITE BY THE FORCES OF WIND OR WATER.

FUELS, OILS, SOLVENTS AND OTHER TOXIC MATERIALS MUST BE STORED IN ACCORDANCE WITH THEIR LISTING AND ARE NOT TO CONTAMINATE THE SOIL AND SURFACE WATERS, ALL APPROVED STORAGE CONTAINERS ARE TO BE PROTECTED FROM THE MEATHER SPILLS MAY NOT BE MASHED INTO DRAINAGE SYSTEM EXCESS OR WASTE CONCRETE MAY NOT BE WASHED INTO PUBLIC MAY OR ANY OTHER DRAINAGE SYSTEM PROVISIONS MIST BE MADE TO RETAIN CONCRETE WASTES ON SITE UNTIL THEY CAN BE DISPOSED AS A SOLID WASTE.

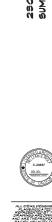
TRASH AND CONSTRUCTION RELATED SOLID WASTE MUST BE DEPOSITED INTO A COVERED RECEPTAGLE TO PREVENT CONTAMINATION OF RAINWATER AND DISPERSAL BY MIND.

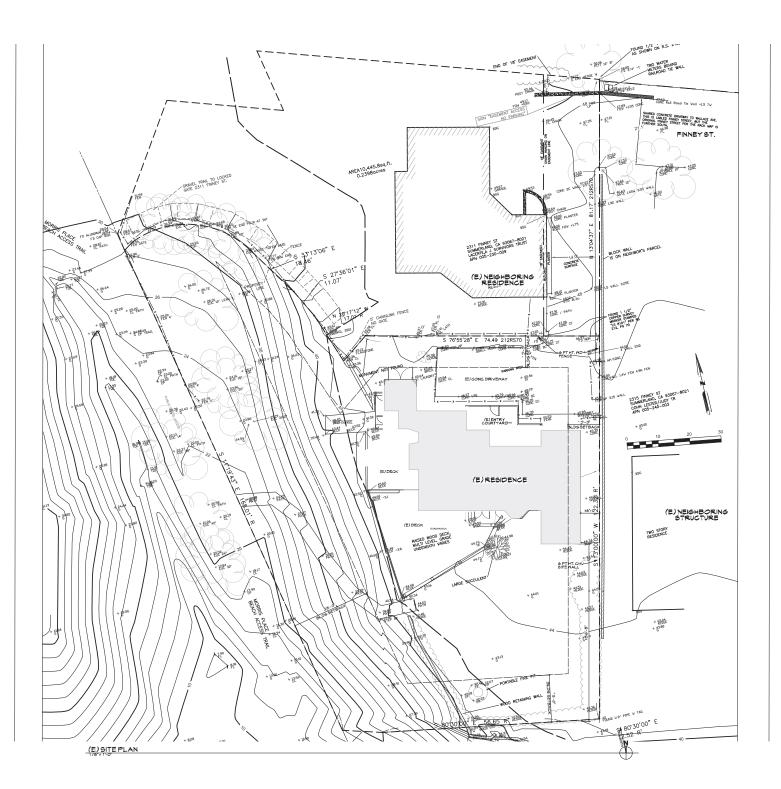
SEDIMENTS AND OTHER MATERIAL MAY NOT BE TRACED FROM THE SITE BY VEHICLE TRAFFIC, THE CONSTRUCTION ENTRANCE ROADWAYS MUST BE STABILIZED SO AS TO INHIBIT SEL FROM BEING DEPOSITED INTO THE PUBLIC WAY ACCIDENTAL DEPOSITION MUST BE SWEPT UP IMMEDIATELY AND MAY NOT BE MASHED DOWN BY RAIN OR OTHER MEANS. ANY SLOPES WITH DISTURBED SOILS OR DEMANDED OF VEGETATION MUST BE STABILIZED SO AS TO INHIBIT EROSION BY WIND AND WATER





A0.2







PACIFIC ARCHITECTS

1117 COAST VILLAGE RD. MONTECITO, CA 93108 8 0 5 . 5 6 5 . 3 6 4 0



Date: 11/12/21 A 1.0

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Revision	Description	Cote
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<u>Ą 1. 1</u>

N. SITE PLAN

AREA10.445.8sq.ft. 0.23980cres

(N) ADU

+ 经达回额

(E)RESIDENCE

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EOFNEN PPER ROOF LOPMENT EXCLUSION SERVING

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70 0000 1/2" Per Messen 15 3146" A5 90000 04 RS. 2/2 PG. 70 A5 90000 04 RS. 2/2 PG. 70 A5 90000 04 RS. 2/2 PG. 70 MESSEN WESSEN WALL

> > (E) NEIGHBORING STRUCTURE

TWO STORY RESIDENCE P A C I F I C ARCHITECTS

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> 2305 FINNEY ST. SUMMERLAND, CA 43067

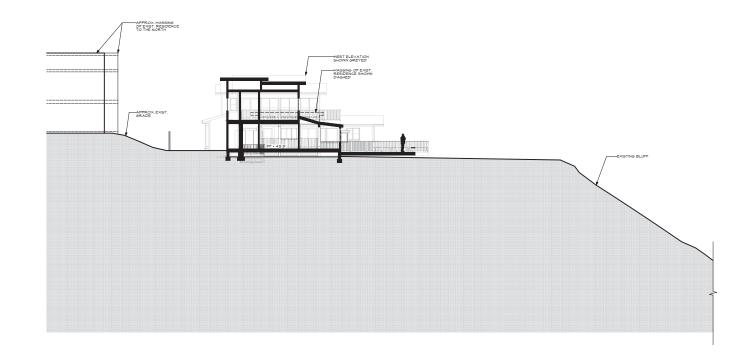


PACIFIC ARCHITECTS

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A1.3



SITE SECTION 'A-A'

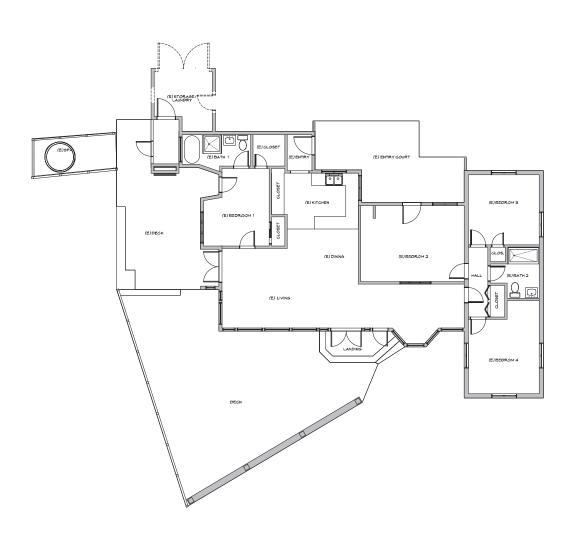
MALL LEGEND

(N) 2X STUDS @ 16" O.C. D.F. No. 2 OR BETTER

(E) WALL TO BEREMOVED

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Date:	11/12/	21





LOWER FLOOR DEMOLITION PLAN



- EXISTING LOWVOLTAGE PLUGRESCENT

- PLUDRECTOR

  LED AT TO CARGOT

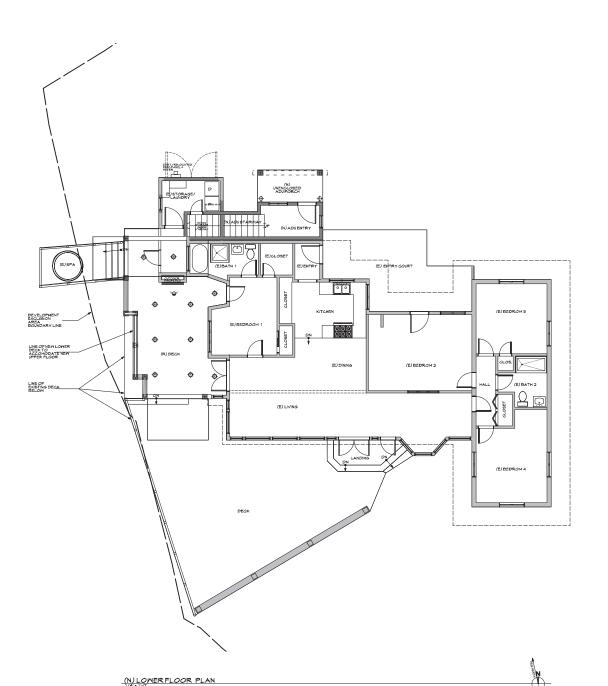
  REPLAND CACCAT STEMPLIFTE

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- TERO-CLEARANCE HISULATION GOVER INCLUDE ALABEL GERTIPY NG AIR-TISHT PLATER PROOF







PACIFIC ARCHITECTS

1117 COAST VILLAGE RD. MONTECITO, CA 93108 8 0 5 5 6 5 3 6 4 0

> ð 2305 FINNEY ST. SUMMERLAND, CA





Revision	Description	Date
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MALL LEGEND

(N) 2X STUDS @ 16" O.G. D.F. No. 2 OR BETTER

(E) WALL TOBE REMOVED

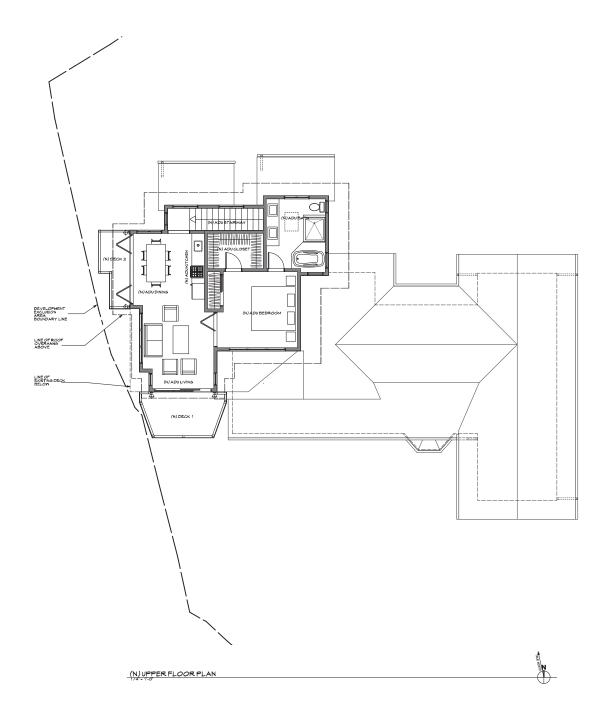


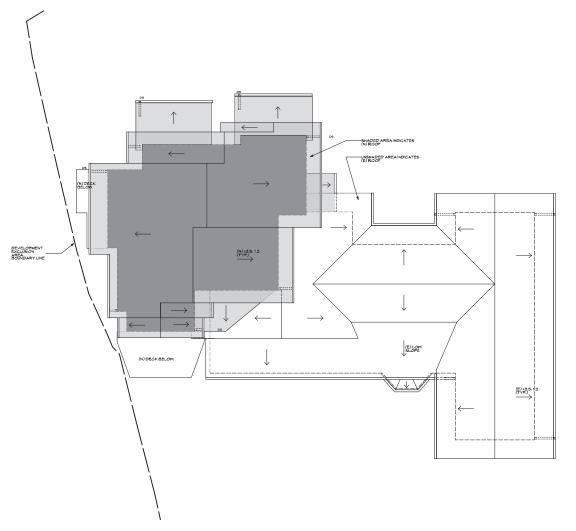


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Job Number:		
Date:	11/12/	21

A2.2

Sheet of





ROOFPLAN

#### ROOF NOTES:

• ROOF COVERING ASSEMBLIES SHALL BE ANICC-ES OR ULLISTED MILCLASS AFOR RESISTIVE ROOF ASSEMBLY COMPLYING WITH ASTMETICS OR ULT 190, PER CDC 1505.1

1) STARTING ATEAVE, A 14-INCH STRIP OF UNDERLAYMENT SHALL BE APPLED PARALLEL WITH THE EAVE AND PASTENED SUPFICIENTLY IN 12 STARTING ATTHE EAVE AND PASTENED SUPFICIENTLY IN 12 STARTING ATTHE EAVE AND PASTENED SUPFICIENT WITH FELT STRIP OF BUSINESS SHEETS 14 INCHES AND PASTENED SUPFICIENT MALLER.

#### DOWNSPOUT & GUTTER NOTES:

\* EACH DOWNSPOUT SHOULD DRAIN NO MORE THAN 50 FEET OF GUTTER FOR SPACING OF DOWNSPOUTS REFER TO ROOF GUTTER YOMNSPOUT FLAN THIS SHEET. \* DOWNSPOUTS SHOULD HAVE A CROSS-SECTIONAL AREA OF AT LEAST 1 SQUARE INCHES, THEIR SIZE SHOULD BE CONSTANT THROUSHOUT THEIR LENGTH.

PROVIDE EXPANSION JOINTS (SLIP JOINTS) ON GUTTERS EXCEEDING SO PEET IN LENGTH.

\*TYPICAL SITE WATER DRAINAGE: 5% SLOPE FOR 10 FT MIN. AMAY FROM STRUCTURE TYP - 2% MIN SLOPE FOR PAVED AREAS AWAY FROM STRUCTURE TYP PACIFIC ARCHITECTS

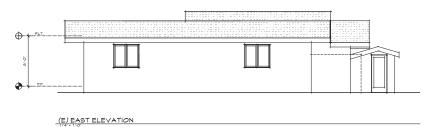
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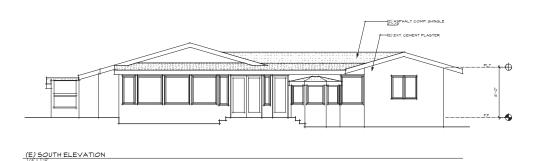




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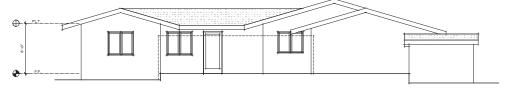
(E) EAST ELEVATION







A4.0



(E) NORTH ELEVATION





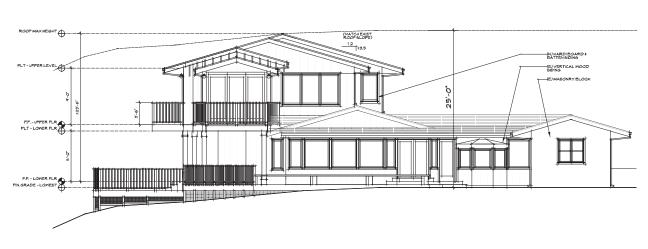




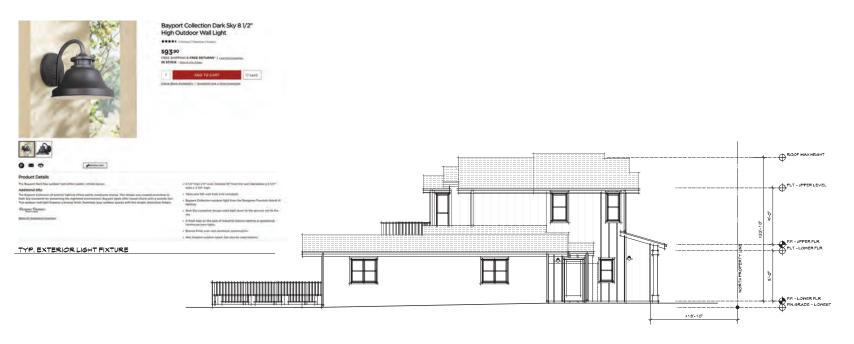
WEST (SIDE - RAVINE FACING) ELEVATION



A4.2



BOUTH (REAR - OCEAN FACING) ELEVATION



EAST (SIDE) ELEVATION



October 23, 2023

Via Electronic Mail
Sam.fearer@coastal.ca.gov
Deanna.Christensen@coastal.ca.gov

California Coastal Commission South Central Coast District Office 89 South California Street, Suite 200 Ventura, CA 93001-2801

Attn: Sam Fearer

Coastal Program Analyst

Re: Response to BMO LLC letter dated 10 July 2023

Coastal Commission Appeal No. A4-STB-22-0027

Local Permit #21CDP-00000-00053

Accessory Dwelling Unit (ADU) at 2305 Finney Street in Santa

Barbara

My client: Lacerte Family Trust

### Dear Mr. Fearer:

This office represents Lacerte Family Trust, appellant in the above referenced matter. We have had an opportunity to review the letter dated 10 July 2023 from Suzanne Elledge Planning and Permitting Services, Inc, filed on behalf of the applicant BMO, LLC. The purpose of this letter is to respond to the contents of that submission and correct the state of the record that has been presented to you by way of that submission.

Generally speaking, with limited exceptions, the Elledge letter fails to address the fundamental and fatal flaws with BMO's proposed project that the Lacerte appeal sets out. What it does contain is a largely disjointed response that appears more

focused on accusing the Lacertes of their own alleged "bad acts" rather than responding to the serious and specific concerns raised by their appeal. Permit issues on an adjoining property are not pertinent to the project under review.

The Project does not conform to the requirement of the LCP. It does not conform to the public access policies underlying the Coastal Act. The significance of the resources potentially impacted is significant, The scope of the project is disproportionate to the character of the neighborhood and the existing restrictions in place in the neighborhood. The project is inconsistent with Coastal Act public access requirements. Finally, the Planning Commission's decision upon which approval was based conflicts with existing LCP requirements.

The appeal should be granted.

### There is Grossly Insufficient Parking for this Project.

The BMO property has a recent history as a vacation rental. The owners are in residence infrequently. The policy behind the promotion and encouragement of ADU construction is to relieve a very real housing shortage along the Central Coast. This application has nothing to do with providing additional housing. It has everything to do with squeezing yet more rental revenue out of a home with a largely off-site owner. The applicant is using the ADU process to try to get through what amounts to a small coastal hotel constructed at the end of a private drive.

Just because an ADU can be built does not mean that it should be built. Developing an ADU under these circumstances circumvents the very legitimate policies underlying the law and appears to be a loophole allowing development under one premise and using the unit for another.

Staff should be charged with undertaking a project-by-project analysis, and not succumb to a very dangerous and incomplete view that "any ADU project in the Coastal zone receives our approval by default."

There is a second project-specific practical reason why this ADU should not be built. As pointed out in the Lacerte appeal, the BMO property is burdened by a Court judgment entered in Santa Barbara County Superior Court. That Judgement prohibits BMO and its guests and invitees from parking in the easement that connects Finney Street to their home. Put another way, that easement is for ingress and egress only, not parking. The easement is over land owned by the Lacertes.

Attached to this letter is a video link demonstrating over 40 instances of violation of this Court order by BMO. The videos demonstrate guests and renters at the BMO property parking in the easement on the Lacerte property in violation of the Court order. This is unfortunately a predictable result of the judgment, since the owners are typically not on site to instruct their short term renters not to park in the easement, and the renters have no stake or concern in whether or not the Court Judgment is violated,

This proposed ADU will in essence replace these short term rental violations with a revolving crew of construction and trade workers who will park on the Lacerte property, and who will be similarly indifferent to adherence to a Court judgment as it relates to a home in which they have no financial interest.

If the applicant cannot abide by a Judgment as it relates to its existing home, how can it be expected to follow it for a large construction project, followed by even more renters once the project is completed? Commission approval will create a nightmare scenario for Finney Street and all of its residents.

As it relates to Finney Street specifically, it is a private road. There is no parking allowed on either side. We know that no construction parking is allowed in the access easement. By default, that means that construction parking will spill out onto Finney Street, where it is likewise not allowed. There are no "reasonable conditions" that can be placed on construction parking, because none of them are legally permissible.

## Coastal and Trail Access will be Significantly Impacted

Additionally, the proposed project would create as a practical matter an entirely new additional private residence on the Summerland coastal bluff in an area already impacted by erosion and environmental issues Approval would not be in keeping with the Coastal Act's responsibility to ensure that the coast remains accessible to the public.

The Project can only be accessed off a private easement over land owned by the Lacertes. This private easement in turn can only be accessed off another private easement—Finney Street. There is no on street parking, although Finney Street has a long history of illegally being used for parking—a strong indication that there is already insufficient parking in the neighborhood. The combination of no onsite street parking available, a strict use egress/ingress easement and limited onsite

parking of the current residence will put pressure on the residents and guests of the entirety of Finney Street to park offsite and walk to their homes. The spillover effect to public parking and public access is obvious and real. Increased private use of public parking available along the ocean-side of the neighborhood will result in less public parking available to the public at large. In other words, less coastal access to the public.

Additionally, as it relates to access, the map utilized for prior development approval of 2305 Finney, issued in 2005, did not show a trail on 2305 Finney. The plans for the proposed ADU, in contrast, do show a trail within the exclusion area. The previously permitted CDP for 2305 Finney restricted all new development within the exclusion area. This proposed trail constitutes new development.

# The Project's CEQA Notice fails to account for the Project being within an environmental sensitive habitat.

The CEQA notice attached to this project states that there is no environmentally sensitive habitat on the subject site. The project is, however, within a monarch butterfly exclusion area. The following excerpt from a County report as it relates to this project states as follows:

report after Suggested Modification 1 wo, as follows:

#### 3. Summerland Community Plan - Biology

Action BIO-S-6.6: New development within the designated exclusion area of the former Morris Place right-of-way (i.e., the eucalyptus butterfly habitat east of Lookout Park) is prohibited, except for limited fuel modification for the protection of life and safety consistent with fire department requirements, where such modification avoids adverse impacts to the monarch butterfly habitat. A proposed fuel modification plan shall be prepared and monitored by an independent monarch butterfly specialist approved by P&D staff, and if necessary a qualified arborist. The proposed fuel modification plan shall require review and written approval by the Santa Barbara County Planning Department (P&D) and the Fire Department. The proposed fuel modification plan shall only be approved if the fuel modification plan concludes that the proposed fuel modification is limited to the minimum necessary to protect life and safety and that such development would not have an adverse impact to the butterfly habitat. All fuel modification shall take place when monarch butterflies are not present (outside the months of autumnal aggregation, October to March).

The CEQA notice is deficient in that it failed to account for the presence and impact upon the Monarch Butterfly if this project is allowed to proceed. At a minimum, the Commission should grant the appeal for the sole purpose of requiring adequate CEQA review as a precondition to proceeding.

### The Project represents unauthorized development.

Finally, the county's staff report indicates that there was no Coastal Development Permit issued for the expansion of the Single family unit. In the "Background Information" section of that report, staff states as follows:

### 5.3 Background Information

- A 1,054-square-foot single-family dwelling was constructed on the subject property in 1949, prior to the need for zoning approval. At some point after 1949, the dwelling was expanded to 1,638 square feet, however there are no building permits on record to show when the expansion occurred.
- As of 2000, the single-family dwelling was considered nonconforming due to unpermitted additions that caused the single-family dwelling to encroach on:
  - The County-owned road right-of-way (Carey Place) to the east;
  - Land zoned Recreation (REC) to the west; and,
  - o Property boundaries onto the neighboring property to the north.
- In order to bring the single-family dwelling into conformity with ordinance requirements, applications for a Lot Line Adjustment, Rezone, and General Plan Amendment were submitted in 2000 and approved in 2003. The Lot Line Adjustment (Case No. 00-LA-018) resolved the encroachment of the residence onto the neighboring parcel to the north and created the existing parcel configuration. The Rezone (00-RZ-007) and General Plan Amendment (00-GP-009) were processed concurrently with the Lot Line Adjustment, and resolved the issue of the single-family use on the land zoned REC by changing the zoning of that portion of the property to 7-R-1. As part of the approval, the County entered into an agreement to vacate the County ownership of a portion of Finney Street, which resolved the non-conformance of the residential structure that was built over the property line. Since the Lot Line Adjustment shows the house in the current configuration on the 2003 Lot Line Adjustment, the structure is considered legal.
- On February 5, 2021, Planning and Development issued a Notice of Violation (Case No. 20ZEV-00000-00340) for unpermitted development consisting of a deck enclosure (pergola), installation of utilities, expansion of the deck over the former hot-tub/spa, and the installation of flatwork less than 300 feet from the top of the bluff. The owner removed the flatwork near the bluff, the pergola, and the deck addition. Planning and Development determined that all violations were abated and closed the case on April 2, 2021.

The history demonstrates that as of 2000, the BMO property had been illegally expanded. The 2003 approved Lot Line Adjustment ("LLA") operated to resolve existing encroachment issues. The LLA did not, however, operate to grandfather in any additional expansion that the BMO property might wish to undertake at some future date. That future date is now with this ADU request. The ADU requires, but does not currently have, a subsequent Coastal Development Permit, post-LLA.

Having obtained their LLA, BMO was by definition given the opportunity to request future CDP's for land that they now owned. They have not done that as part of this application.

Finally, in researching the 2305 Finney Street parcel history, Lacerte could find no evidence that the parcel possesses or obtained an access easement across Finney Street as part of the LLA process. BMO's land use planner should be able to confirm the status of this issue in fairly short order, to the extent that it requires significant additional investigation from staff. It should go without saying that confirming that the proposed ADU has legal ingress and egress access across Finney Street is a significant issue that needs resolution before Coastal consideration. To the extent that this remains an open issue, the appeal should at a minimum be held in abeyance while the applicant resolves this issue.

#### Conclusion

It bears repeating—just because the law states that an ADU can be granted does not mean that it should be granted. There are certain situations within the Coastal Zone where a blind adherence to a public policy of "creating more housing" must give way to a practical, careful and sober look at the havoc that such adherence will cause in particular situations. This is one such case.

The Lacertes' appeal should be granted.

Thank you.

Sincerely, BERG LAW GROUP

Eric Berg

EB/encs

cc client