

April 29, 2022

Susan Petrovich
Attorney at Law
805.882.1405 direct
spetrovich@bhfs.com

**VIA EMAIL TO JENNIFER.TRUNK@VENTURA.ORG AND
ANGELA.GEORGE@VENTURA.ORG**

Ventura County Planning Commission
c/o Resource Management Agency -- Planning Division
800 South Victoria Avenue
Ventura, CA 93009

RE: Appeal Hearing, Elliot Site Plan Adjustment (Case #PL21-00035) for 8120 Puesta Del Sol

Dear Honorable Commissioners:

Brownstein Hyatt Farber Schreck represents Appellants Douglas and Jaleh White, who own and live in 8128 Puesta Del Sol, which abuts the Elliot property and lies to the west of same.

This letter augments the appeal and provides additional information that responds to the staff report prepared in response to the Whites' appeal.

Appellants respectfully disagree with County staff's conclusion that the proposed changes to the Elliot project require no CEQA review and conform to County ordinances and policies. This letter addresses five (5) topics that we believe have not been fully analyzed by staff: (1) the piecemealing of the project by first applying for structural expansion of the existing, large house; followed now by replacement of the asphalt driveway with 5" of concrete, 4" of base and compaction of the native soil and replacement of an existing fence and posts; and a planned third piecemeal comprising a hedge along the Elliots' northerly property line; (2) the potential damage to three (3) specimen trees whose roots spread out under the Elliot property; (3) blockage of the Appellants' access easement; (4) removal and modification of fencing on the Whites' property; and (5) the project impact upon the potential for flooding and blockage of the community-shared drain pipe intake.

Piecemealing of Project

The Staff report overlooks the piecemealing, claiming that the current project is separate and independent of the structural additions. That is inaccurate. The project site is almost entirely covered by the house, ramps, and driveway/parking area so all of the changes proposed by the Elliots are connected. Now the applicants not only propose to push the boundaries of the property out into Puesta Del Sol, but they propose to remove a very shallow asphalt layer and

County of Ventura
Planning Commission Hearing
PL21-0035
Exhibit 15 - Letter from Susan Petrovich
Susan Esq. (April 29, 2022)

replace it with concrete that starts under the house and extends to Puesta Del Sol, as well as installing loose stones under the house and on Puesta Del Sol, which stones create another hazard [by the way, while the applicant claims that installation of loose stones under the entire house is part of the project, the stones have already been placed under the entire house] as described in detail below. In addition, the Elliots have indicated that they also intend to plant a hedge along much of their northern property line, parallel to Puesta Del Sol. These modifications are part of one large project that the Elliots piecemealed to downplay the environmental impacts of the total project.

Impacts on Tree Roots

We enclose photographs of the three (3) heritage trees that are located on the Whites' property but whose roots have spread out under the Elliot property because of their proximity to that property. We also enclose a diagram of how far the protected root zone (per County ordinance) extends.

We enclose for your review an aerial photograph that demonstrates the proximity of the Elliot property to Rincon Creek. The Whites' lot and the Elliots' lot both are each 60 feet wide and the creek vegetation extends into the Whites' property, so the staff report statement that the Elliot property (with proposed modifications) is outside the protected 100-foot ESHA line is simply untrue.

The County General Plan Resources Policy 1.7.2-1 prohibits degradation of visual resources. The Coastal Area Plan – Scenic Resources section 30251 requires that scenic and visual qualities of coastal areas shall be protected as resources of public importance. The Coastal Area Plan section 30240(b) requires that development adjacent to ESHA be designed to prevent impacts which would significantly degrade such areas and shall be compatible with continuance of habitat areas. The Coastal Zoning Ordinance, sections 8181.7.5.d & e require that proposed development not be obnoxious or harmful or impair the utility of neighboring properties or detrimental to public health, safety and/or welfare.

Many of the project elements violate these ordinances and policies, including the proposal to remove relatively shallow asphalt paving and replace it with a new paving that will require digging far deeper into the native soil than the asphalt paving involved and will require subsoil compaction. The plan appears to be digging down deep enough to flush-mount a 5" deep slab of concrete on top of a 4' deep layer of concrete base, placed on top of native soil that will be compacted (see attached email from architect Jim Hanafin to Steve Sharp of Casitas Water and 12/9/2020 report from Richard M. Beard of Earth Systems Pacific). Replacement of approximately 3" of asphalt with 9" of new material, plus compaction of the subsoil, is highly likely to damage the shallow root system of these incredible trees. Because the groundwater level under these properties is relatively shallow, the tree roots must run just below the earth surface to avoid drowning in the groundwater.

In 2018, the Planning Commission agreed that these trees are protected and expressed significant concern about damage to the root systems of these trees because the trees are an important visual resource in this lovely coastal area.

Driveway/Accessway Blockage

We enclose the project plan, showing the intent to put loose rocks in Puesta Del Sol north of the east end of the Elliot property. The rocks will replace a significant part of the paved asphalt roadway and will impede the Whites' use of this deeded easement that runs with their land. The projection of loose rocks out into the traveled roadway will impair the Whites' access, particularly access for emergency vehicles, delivery trucks, and the like. The Whites' driveway is narrow so larger vehicles must drive along the south edge of Puesta del Sol to fit into the driveway. The Whites' driveway provides the closest access to this area of the beach and emergency vehicles frequently use the driveway for rescue operations. Impairing this access is frivolous and could cost lives.

Fencing Replacement

We also enclose a copy of a recent survey conducted by licensed surveyor RDH Land Surveying, which demonstrates the location of the fenceline that the Whites and Elliots share. The northerly 20' fence section, which is 6 feet high now, that the staff report says will be replaced with a 3' high fence extends from the north property line to a point just north of the southerly wall of existing trash enclosure. The survey demonstrates that this fence section is located entirely on the Whites' property and the Whites DO NOT CONSENT to its removal or modification. The Whites also DO NOT CONSENT to replacement of the existing fence. All of the fence posts are located on the Whites' side of the fence and most of the fence posts are buried in a large hunk of concrete. The protected tree roots cross the property line under the fence and continue under the Elliot property. We enclose a photograph of one such root, which surfaces just east of the fence. The potential for root damage during fence replacement far outweighs any need for a new fence. If the Elliots want to hang a new facing on their side of the existing fence without damaging the existing fence, the Whites would support that approach. The Whites do not consent to replacement of the existing fence, which largely straddles the shared property line.

Flooding/Drainage Issues that the Stones Will Exacerbate

As you can see from enclosed photographs, these two properties tend to be flooded periodically, including at high tide. We also include a photograph of the one drain that carries to Rincon Creek the surface water that pools in this corner of Puesta Del Sol. The drain is small and easily clogged. The flood waters are likely to pick up a significant number of the proposed loose stones, carrying them from their proposed situs toward the drain to the low spot where they will clog the drain, impeding drainage of the flood waters. In short, loose

stones in this portion of Puesta Del Sol become debris that will create a significant drainage issue, particularly for the Whites, whose sole access is through the inundation area.

One more issue regarding the drainage is the Elliots' re-routing of the runoff from their house roof. We draw your attention to the 4/14/2021 memorandum from County Public Works, which states that there is no direct connection between the Elliot property and Rincon Creek: "Site drainage flows directly to the Pacific Ocean, therefore the direct and indirect project-specific and cumulative impacts . . . are less than significant." As you can see from the enclosed site plan, the yellow highlighted "slope" arrows all point from south to north. The ONLY way to drain water from the Elliot property is for it to run into the catch basin drain that leads directly to the creek. More to the point, the Elliots recently have installed rain gutters that collect all of the rooftop runoff and deposit it into the driveway area to flow into the drain and directly to the creek.

Conclusion

Mr. and Mrs. White ask that these unnecessary changes not be approved because they will adversely impact the Whites' property. Replacing 3 inches of asphalt with 9 inches of new material and compacting the subsoil will unnecessarily threaten the heritage tree roots. The existing asphalt is intact and is serviceable if properly maintained. Removing the existing fence is also potentially injurious to the tree roots and completely unnecessary; improving the appearance from the Elliots' side could be accomplished by hanging new fencing on the existing fencing. Lowering the existing fence to 3' in height at the north end not only will impair the privacy of the Whites' yard, but will remove the home security that the current 6-foot high fence provides and will prevent the family dog from using the Whites' front yard. This, too, will adversely impact the Whites. Because the northerly 20 feet of the fence is located entirely within the Whites' property, it may not be included in this project. The shared fence is owned jointly by the two neighbors and one cannot modify the fence to the detriment of the other.

We respectfully request that the application be denied.

Sincerely,




Susan F. Petrovich


Attachments:


Aerial Photograph of White and Elliot Properties
RDH Survey
Elliot Plan Showing Extension into Street & Elliot Driveway Slope
Photographs of Protected Trees
Photo of Tree Root between Fence and Elliot House
Tree Root Zones Per County Ordinance
Photograph of Whites' Driveway Entrance
Public Works Letter
Earth Systems Letter
Hanafin Email re Proposed New Paving Depth
Flood Photographs
Drain Photograph
Photographs of Elliot Roof Drain Pipes




Project PL17-0084

 Parcel, APN: 006-0-170-200

 **General Plan**

 **Zoning**

 **Area Plan**



Ventura County, California
Resource Management Agency
GIS Development & Mapping Services
Map Created on 12-21-2017
This aerial imagery is under the
copyrights of Pictometry
Source: Pictometry, Jan. 2017



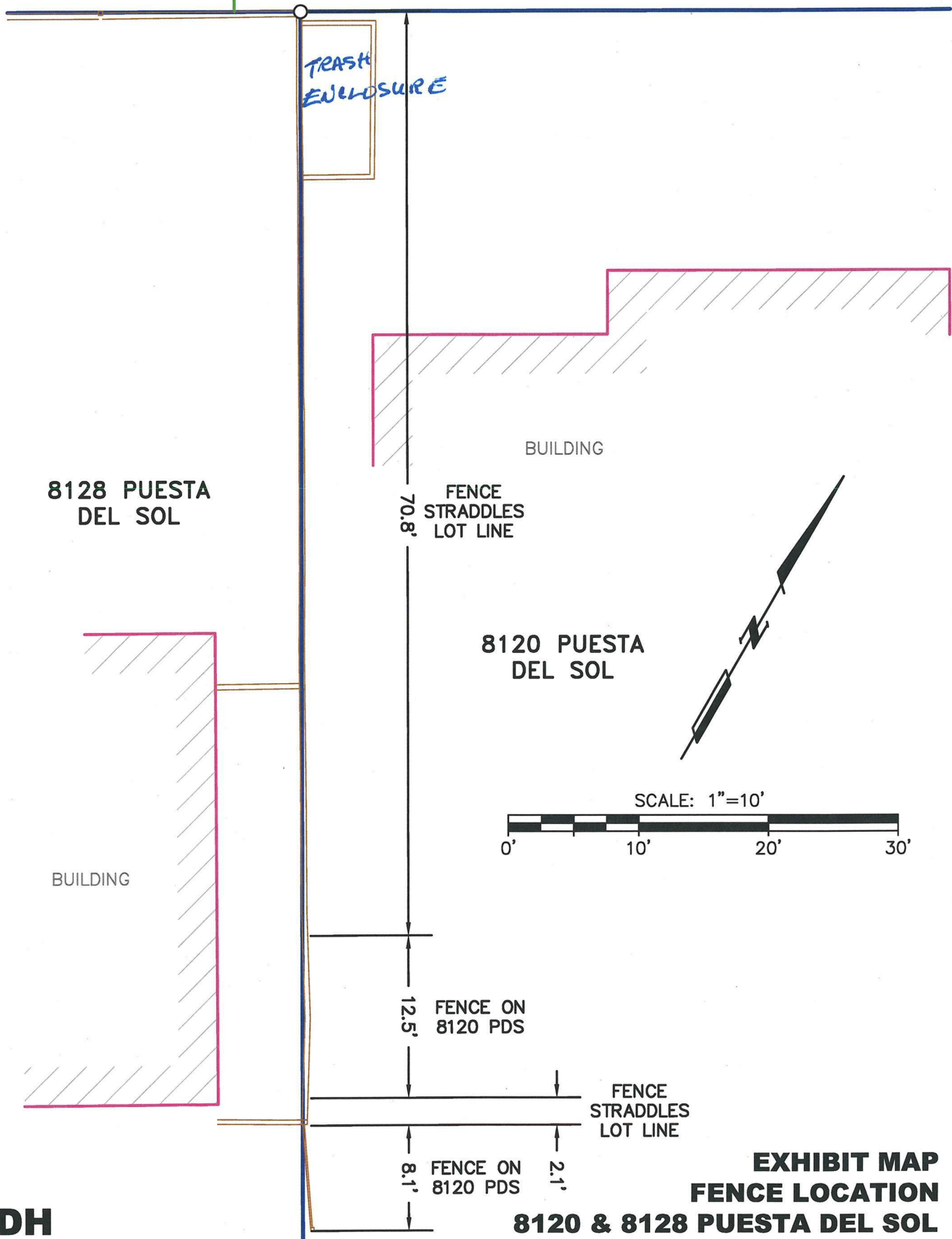
**County of Ventura
Planning Director Hearing
PL17-0084
General Plan & Zoning Map**

0 50 100 Feet

Disclaimer: This Map was created by the Ventura County Resource Management Agency, Mapping Services - GIS which is designed and operated solely for the convenience of the County and related public agencies. The County does not warrant the accuracy of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereon.



RH



8128 PUESTA
DEL SOL

BUILDING

70.8' FENCE
STRADDLES
LOT LINE

8120 PUESTA
DEL SOL

BUILDING

SCALE: 1"=10'



12.5' FENCE
ON
8120 PDS

FENCE
STRADDLES
LOT LINE

8.1' FENCE
ON
8120 PDS

2.1'

EXHIBIT MAP
FENCE LOCATION
8120 & 8128 PUESTA DEL SOL

RDH

LAND SURVEYING & CONSULTING
W.O. 2324 2324-EX-03.DWG (EM-03-02)

20 APRIL 2022
2 OF 2

NOTE: SPOT ELEVATIONS
ARE BASED UPON AN
ASSUMED DATUM

INLET TO A
15" CULVERT

PUESTA DEL SOL

AC ROADWAY

AC DRIVEWAY

WHITE DRIVEWAY

8128 PUESTA DEL SOL
APN 008-170-345



[Signature]

20 APRIL 2022
BUILDING

BUILDING

AC PARKING

8120 PUESTA DEL SOL
APN 008-170-200

SCALE: 1"=16'



RDH

LAND SURVEYING & CONSULTING
W.O. 2324 2324-EX-03.DWG (EM-04-01)

**EXHIBIT MAP
SPOT ELEVATIONS
8120 & 8128 PUESTA DEL SOL**

20 APRIL 2022

1 OR 1



Attachment #1
Osprey roosting
on tree top.









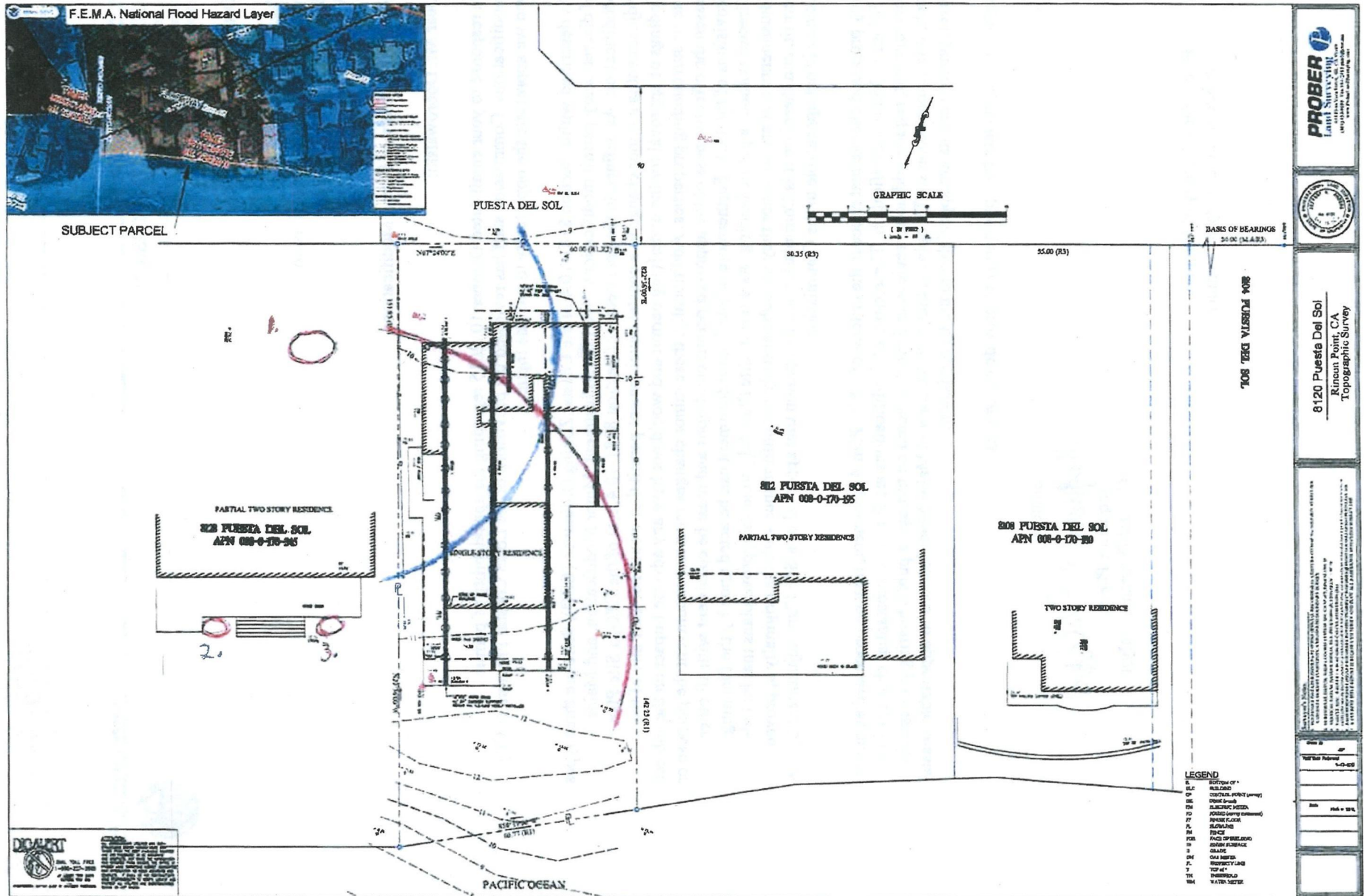
Petrovich, Susan

From: Doug White <dougwhite7@gmail.com>
Sent: Friday, April 22, 2022 5:25 PM
To: Petrovich, Susan
Subject: Root



Sent from my iPhone

Attachment #2







WATERSHED PROTECTION
WATERSHED PLANNING AND PERMITS DIVISION
800 South Victoria Avenue, Ventura, California 93009
Sergio Vargas, Deputy Director – (805) 650-4077

MEMORANDUM

DATE: April 14, 2021

TO: Angela Georgeff, RMA Planner
County of Ventura

FROM: Alex Hill, Engineer II – Advanced Planning Section

SUBJECT: PL21-0035 Elliot Family LLC
APN(s) 0080170200
31a. Flood Control Facilities – Watershed Protection
Watershed Protection (WP) Project Number: WC2021-0026
COMPLETE

Pursuant to your request dated April 1, 2021, this office has reviewed the submitted materials and provides the following comments.

PROJECT LOCATION:

8120 Puesta Del Sol, Ventura, CA

PROJECT DESCRIPTION:

Site Plan Adjustment (SPAJ) to Coastal Planned Development Permit (PD) (Case No. PL17-0084) for the re-design to the existing hardscape driveway, the installation of a new fence along the eastern and western property lines, and the repair of an existing trash enclosure. This SPAJ includes an Arborist Report and Tree Protection Plan.

APPLICATION COMPLETENESS:

COMPLETE - from our area of concern.

31a. Flood Control Facilities/Watercourses – Flood Control Facilities / Watercourses – Ventura County Public Works Agency, Watershed Protection

The Project is situated east of Rincon Creek, which is a WP jurisdictional redline channel; however, no direct connections to this WP channel appear to be proposed or indicated on the applicant's submitted materials.

Site drainage flows directly to the Pacific Ocean, therefore the direct and indirect project-specific and cumulative impacts to flood control facilities and watercourses are less than significant (LS) on redline channels under the jurisdiction of Ventura County Watershed Protection.

**INITIAL STUDY CHECKLIST
PL21-0035 Elliot Family LLC**

ISSUE	PROJECT IMPACT DEGREE OF IMPACT*				CUMULATIVE IMPACT DEGREE OF IMPACT*			
	N	LS	PS-M	PS	N	LS	PS-M	PS
31. Flood Control Facilities/Watercourses								
a. Watershed Protection District		X				X		

Explanation: Degree of Effect

N = No Impact

LS= Less Than Significant

PS-M = Potentially Significant Impact Unless Mitigation Incorporated

PS = Potentially Significant Impact

WATERSHED PROTECTION CONDITIONS:

None.

If you have any questions, please feel free to contact me by email at Alexander.Hill@ventura.org or by phone at (805) 654-3795.

END OF TEXT



Earth Systems

1731 Walter Street, Suite A | Ventura, CA 93003 | Ph: 805.642.6727 | www.earthsystems.com

December 9, 2020

Project No.: 300802-001

Report No.: 20-12-25

Gregory and Michelle Elliott
c/o Curtis and Windham Architects, Inc.
Attention: Daniel Ostendorf
3815 Montrose Boulevard, Suite 100
Houston, Texas 77006

Project: 8120 Puesta del Sol
Rincon Point area of Ventura County, California
Subject: Concrete Panel Paving
Reference: Earth Systems Southern California, 2017, Geotechnical Engineering Report for Proposed Construction at 8120 Puesta del Sol, Rincon Point area of Ventura County, California, Project No. VT-25376-01, Report No. 17-6-19, June 6

Earth Systems Pacific (Earth Systems), formerly Earth Systems Southern California, in October 2017, prepared the referenced Geotechnical Engineering Report for construction at an existing residence located at 8120 Puesta del Sol in the Rincon Point area of Ventura County, California. It is proposed to build the driveway and parking area with about 4- by 4-foot independent concrete panels separated by gravel. Earth Systems has been requested to provide geotechnical recommendations for the pavement, which is anticipated to receive vehicular traffic.

According to the boring logs in the referenced report, the soils at the site are primarily clean sands. Clean sands are unstable in the sense they displace under surface loading and may not provide good support for isolated concrete pavement, particularly when a small concrete panel is edge loaded.

It is recommended that pavement panels be a full 5 inches thick and reinforced with No. 3 bars at 18 inches on center each way. If the concrete cracks, the reinforcement will help hold the cracks together. Because the clean sand subgrade will be unstable, it is recommended that the concrete be supported on 4 inches of compacted aggregate base compacted to a minimum of 95% of maximum dry density determined by ASTM D 1557. The subgrade should be prepared by adjusting the moisture content to near the optimum condition for compaction, and compacting the subgrade to a minimum of 95% of the maximum dry density determined by ASTM D 1557. Compaction should be confirmed by testing. The subgrade should be covered with a layer of Tensar TX7 Triaxial geogrids before placing the aggregate base.

Earth Systems appreciates the opportunity to assist you with your project. Please call the undersigned if you have questions about this letter.

Respectfully submitted,
Earth Systems Pacific

Richard M. Beard
Geotechnical Engineer 128



9 December 2020

Copies: 1 - Gregory and Michelle Elliott (1 email,)
4 - Rasmussen and Associates (3 pickup, 1 email)
1 - Project File

From: [Steve Sharp](#)
To: [Jim Hanafin](#)
Subject: Re: 8120 Puesta del Sol Drive way-Concrete paving
Date: Tuesday, April 27, 2021 8:30:09 AM

Good morning Jim,

In my last email I stated that there should not be a problem replacing the existing asphalt with new asphalt, and if some of that will be replaced with concrete instead that should be fine.

On Wed, Apr 21, 2021 at 4:49 PM Jim Hanafin <jhanafin@ra-arch.com> wrote:

Steve,

Thank you for the review and call back. We are replacing existing asphalt with concrete paving.

To confirm, the 5" of concrete paving over 4" of compacted base (as described on the replacement driveway plan) will not conflict with any Casitas main lines in the HOA areas of replacement concrete paving.

Jim Hanafin

21 S. California Street

Fourth Floor

Ventura, California 93001

(805) 648-1234, Ext 13

jhanafin@RA-Arch.com

From: Steve Sharp <ssharp@casitaswater.com>

Sent: Wednesday, April 21, 2021 3:23 PM

To: Jim Hanafin <jhanafin@ra-arch.com>

Subject: Re: 8120 Puesta del Sol Drive way

Good afternoon Jim,

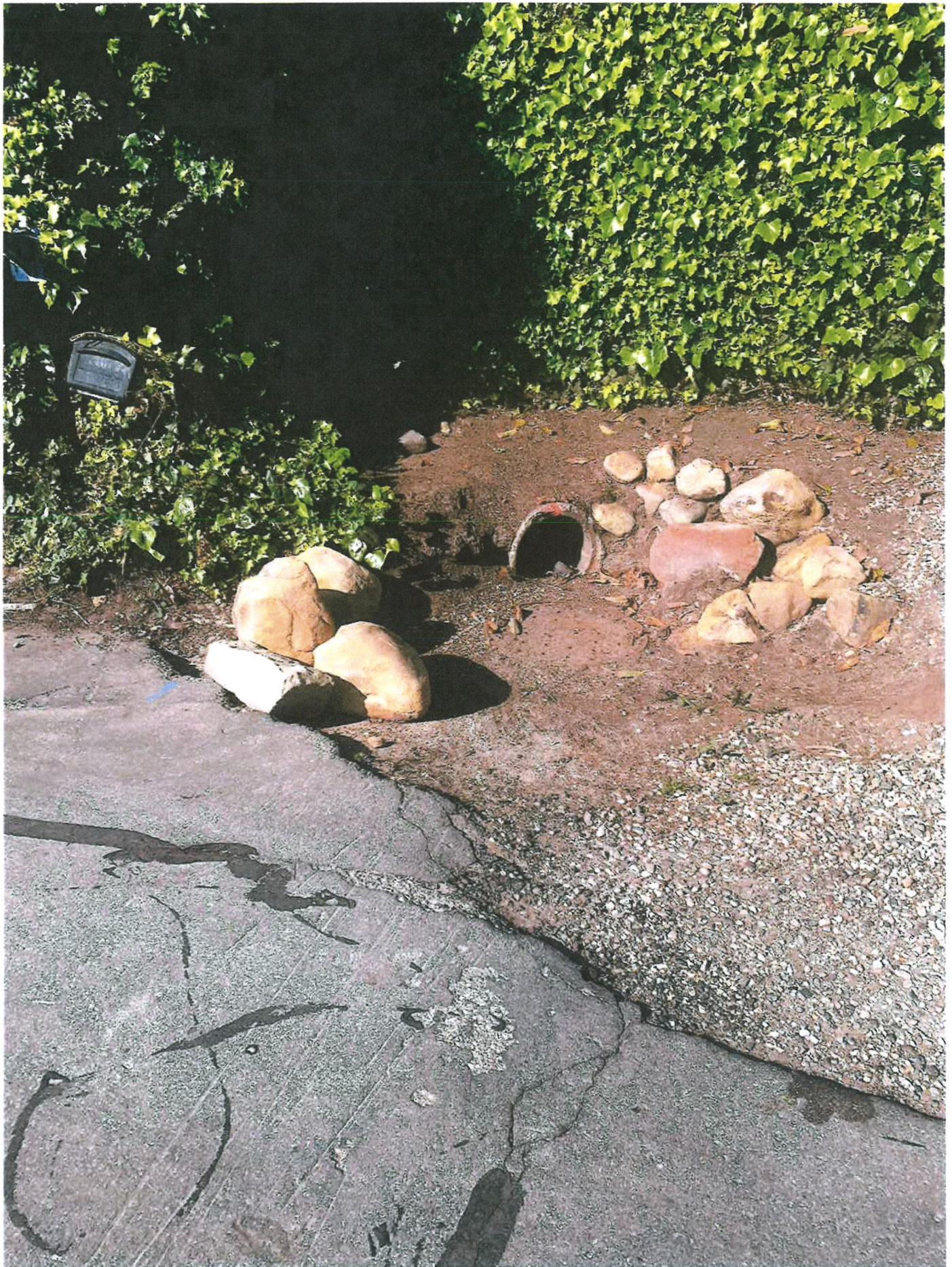
The location of our water main is currently under portions of the HOA's asphalt road, so I do not see an issue replacing current asphalted locations with new asphalt.



Petrovich, Susan

From: dougwhite7@gmail.com
Sent: Saturday, April 23, 2022 9:42 AM
To: Petrovich, Susan
Subject: flooding Nov. 29, 2018









Petrovich, Susan

From: dougwhite7@gmail.com
Sent: Sunday, April 24, 2022 5:07 PM
To: Petrovich, Susan; Moore, Lyn
Subject: NW corner downspout draining to driveway



