



Doug White <dougwhite7@gmail.com>

PL 210035 Driveway repair and fencing project at 8120 Puesta del Sol

Doug White <dougwhite7@gmail.com>

Fri, Apr 9, 2021 at 4:02 PM

To: "Georgeff, Angela" <angela.georgeff@ventura.org>

Cc: "Petrovich, Susan" <spetrovich@bhfs.com>

Dear Angela,

Thanks for the plans and the arborist's report. Here are a few remarks and questions:

1. I noticed that they mentioned a report by Earth Systems but it was not included. Is it available for review?
2. Item #3 in the Note Legend refers to a replacement fence. Our property is currently fenced as we like it. This plan proposes an entirely new fence. How far will this fence extend toward the ocean? How many post holes will it require in the protected root zones of the trees? The Planning Commission addressed concerns regarding widespread and avoidable intrusions into the root zones of these protected trees with specific conditions at their hearing for the original project. The arborist did not mention an examination of the fence line in his report. Please see the photo below of a large root extending under the fence toward the Elliott's house. Could the fence extend so far as to encroach on public views or harm native vegetation in the project area?
3. Earlier plans showed planting of many shrubs and a large tree in the driveway/roadway area. Has that plan been abandoned?
4. This area is subject to flooding both from runoff accumulation during rain events and backflow up the drain at high tide. See pictures below. Have the applicants provided you with baseline elevations? It is essential to ensure that changes not exacerbate flooding to the roadway or neighboring properties.
5. I have included a picture showing service and invitee parking in the driveway area even when the Elliotts are absent. We are concerned that the new decorative changes to the driveway area will encourage overflow parking into the roadway that will obstruct our easement and pose safety hazards in an area of limited ingress and egress. Can a parking plan be developed so that overflow parking does not encroach on or block the roadway easement to my driveway? An earlier landscaping plan proposed obstructions such as landscaping islands and a large tree actually in the roadway. This plan proposes project activities that extend significantly beyond the bounds of the applicants' parcel and over public utilities. Shouldn't the roadway owner, rather than the Elliotts, be the applicant for any changes to the roadway so cumulative impacts and mitigation such as parking, flooding and access to underground utilities can be fully assessed? Have the utility companies been informed of the plan to place a reinforced concrete slab over water, gas and sewer lines? [Incidentally, my driveway is one of the few areas where emergency vehicles have direct access to the Rincon Point beach.]
6. As we have not been provided with comprehensive landscaping plans including those for the ocean side of their parcel, we would like to express our concern about any alterations to natural landforms that would change the flow of water across the Elliott's property in the context of sea level rise and recent flooding.

Thanks,

Doug

County of Ventura Planning Commission Hearing PL21-0035 Exhibit 23 - Correspondence from The Whites
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June 23, 2021

To: Jennifer Welch, Planning Manager
Residential Permits Section
Ventura County Resource Management Agency

Re: Proposed Project at 8120 Puesta del Sol (PL21-0035)

Dear Jennifer,

Per our phone conversation on Wednesday June 16th, you advised us that since this project is a permit for a Site Plan Adjustment, it is not appealable to the Coastal Commission. Therefore, it is not subject to a public hearing and if the decision is appealed, the appeal is subject to a \$1000 deposit and a fee schedule for any additional staff time required for processing. This is contrary to the assurances you gave us and the Commissioners at the December 13, 2018 Planning Commission hearing on the project. In a lengthy discussion regarding tree root protection in the event of future ground disturbance, Commissioner Aidukas asked you directly: "If there was an objection, there is a way to appeal that?" You responded: "Absolutely. There is an appeal process that is folded into our Code that because it is a discretionary action, even if it is a ministerial action, the Public has a right to appeal". Throughout the Hearing we were repeatedly assured that, should there be future ground disturbance, we would be able to come back before the Commission.

You also advised us that your decision of June 10, 2021 regarding the Determination of Application Completeness and Environmental Determination is only appealable by the applicant. In that decision you had consulted the County Counsel. Subsequently you emailed us a letter from Ms. Phelps of the Coastal Commission dated October 22, 2015 regarding the Appealability of Permit Modifications. In that letter she underscores that "a Site Plan Adjustment is a minor change to a Coastal Development that would not alter any of the findings of approval for the underlying permit and would not have any adverse impact on the subject site or surrounding properties. Additionally, these minor changes must not circumvent the purpose or lessen the effectiveness of the approved permit conditions and must be consistent with all other provisions of the LCP." We would like to point out that Condition 20 (governing the original project approval of 2018) expressly states that "the Project is not expected to impact the root system of the Cypress tree or any other trees". In addition, Condition 1 states that: "construction activities...will not extend beyond the boundaries of the subject property".

As was discussed at length in the December 13, 2018 hearing, a significant portion of the proposed project site and much of the adjacent protected biological resources fall within the one-hundred-foot buffer of the Rincon Creek estuary. Most of the fence falls within the protected root zone of tree number 3 determined to be ESH at the Planning Commission Hearing. Additionally, the fence also runs through the root zone of tree number 1, located in our courtyard, whose canopy overhangs the property line and

which was discussed at length at the hearing. At that hearing you also emphasized that "the Staff Report actually does recognize the trees as ESHA". Nonetheless, in our phone call last week you questioned our assertion that ESHA would be impacted by this project, effectively undermining determinations that were the central focus of our prior appeal and the underlying permit hearing.

Removal of even one fence post set in a poured concrete footing is not a gentle process. To repeat this action sixteen or more times does not constitute a "minor" ground disturbance that "would not have any adverse impact on the subject site or surrounding properties". There has been no analysis presented showing what removal of these posts would actually involve in this sensitive area. Indeed, the location and number of fence posts was absent from both the Site Plan and the ALTA survey. Absent this most basic information, the Applicant has not established what, if any, of this infrastructure falls on their property. How could an environmental determination be made without critical information about the proximity of the biological resources and coastal ESHA?

Moreover, given the existing errors in the ALTA survey, it is also foreseeable that this project could have a negative impact on neighbors that extends beyond the loss of privacy and security associated with the proposed reductions in fence height to outright appropriation of any fence infrastructure located on our property. Any part of the fence, including fence posts, that is on our property should be excluded from the Elliotts' project. Once again, we would like to point out that the fence is mislocated and mis-labeled on the ALTA Survey and the wooden fence posts are omitted entirely. The nature of these errors and omissions obscures what is actually on the ground in a way that could well mischaracterize the scope of the project.

We note that the existing permit conditions were the result of extensive analysis, including that of multiple arborists culminating in the findings of the above Planning Commission Hearing. As such, this project fails to meet the Site Plan Adjustment criteria set forth in the Phelps letter cited above. It is clearly foreseeable that any permit modification involving significant ground disturbance could lessen the effectiveness of the existing permit conditions of approval which were crafted in response to a project that the applicant claimed would not involve any ground disturbance. Moreover, as mentioned above, the wholesale removal of 16 concrete-footed fence posts located in the root zones of two specifically protected trees, could well lessen the protectiveness of the underlying permit conditions. As such, we take issue with your contention that this is a mere Site Plan Adjustment, which effectively chills our ability to appeal to the Planning Commission without a significant financial burden. Given that these are core coastal resources (called nothing less than "magnificent" by Commissioner White who actually visited the site), it is against public policy and the spirit of the LCP to impose financial barriers to their protection.

We respectfully maintain that this project is not a mere Site Plan Adjustment and must be subject to penalty-free appeal to the Coastal Commission, with an associated public hearing. Once again, we would like to formally request timely notice by email of the

Planning Director's decision. Last time, the email notice of the Determination of Application Completeness of June 10, 2021 arrived four days later on June 14th.

Thanks for your consideration,

Doug and Jaleh White