



January 24, 2023

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: De Novo Hearing to Consider Approval of a Site Plan Adjustment (Case No. PL21-0035) to Coastal Planned Development Permit (Case No. PL17-0084) to Authorize Repair and Maintenance Activities at a Single-Family Residence Located at 8120 Puesta del Sol, in the unincorporated Rincon Point Area, and to Consider Related Appeal of the Planning Commission's Decision Approving the Project (Appeal No. AP22-0014); Determine that Project is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Sections 15301 and 15302; Supervisorial District No. 1.

A. RECOMMENDED ACTIONS

1. **CERTIFY** that your Board has reviewed and considered this Board letter and all exhibits hereto including the attached Planning Commission staff report dated May 5, 2022 (Exhibit 1) and all exhibits thereto and has considered all other documents and testimony submitted and presented regarding this matter.
2. **ADOPT** the Resolution attached as Exhibit 2 setting forth findings of fact and conclusions of law and taking the following actions regarding this matter:
 - A. **DETERMINING** that the project is exempt from the California Environmental Quality Act and that no exceptions preclude use of the exemption;
 - B. **APPROVING** the requested Site Plan Adjustment (Case No. PL21-0035) subject to the attached conditions of approval (Sub-exhibit 10 of Exhibit 1); and
 - C. **DENYING** related Appeal No. AP22-0014 (Exhibit 3) and **DECLINING** to refund any appeal fees.
3. **SPECIFY** that the Clerk of the Board is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the administrative record of proceedings upon which these decisions are based.

B. FISCAL/MANDATES IMPACT AND APPEAL FEES

On May 12, 2022, Douglas and Jaleh White, property owners of 8128 Puesta del Sol (which is herein referred to as “appellant”), submitted the required \$1,000 appeal fee in accordance with the current Board-adopted Fee Schedule to appeal the Planning Commission approval of a Site Plan Adjustment (SPAJ).^[1] The County cost to process this appeal is funded by the \$1,000 appeal fee paid by the appellant. Processing costs in excess of \$1,000 will be funded out of the adopted budget of the Resource Management Agency.

If the appeal is granted in full, the Planning Division will refund all appeal fees for the appeal. If the appeal is granted in part, your Board may decide to refund a portion of the appeal fees if one or more of the grounds of appeal that were raised by the appellant to the Resource Management Agency (RMA) before filing the appeal were sustained and caused a material change in the matter being appealed. Consequently, if your Board grants the appeal in part, your Board may determine at the time the decision is rendered what portion of the appeal fees should be refunded to the appellant.

As of the date of this letter, the County’s costs to process the appellants’ appeal of the Planning Commission’s decision to your Board (less the \$1,000 appeal deposit) is \$20,593.32. Should the subject appeal be granted in full or in part and fees refunded, costs will be absorbed by the RMA, Planning Division FY 22-23 Budget.

FY 2022-23 Budget Projection for Planning – Division 2910				
	Adopted Budget	Adjusted Budget	Projected Actual	Estimated Savings/(Deficit)
Appropriations	\$ 10,382,005	\$ 10,382,005	\$ 10,382,005	\$ -
Revenue	\$ 5,195,406	\$ 5,195,406	\$ 5,195,406	\$ -
Net Cost	\$ 5,186,599	\$ 5,186,599	\$ 5,186,599	\$ -

Sufficient revenue and appropriations are available in the FY 2022-23 RMA-Planning budget to cover costs associated with the appeal

C. EXECUTIVE SUMMARY

The applicant requests approval of a SPAJ Case No. PL21-0035 to Coastal Planned Development (PD) Permit Case No. PL17-0084, to replace an existing driveway and fence.

^[1] Pursuant to the Planning Division Fee Schedule, no County fee is charged to appeal a County decision regarding a project that is appealable to the California Coastal Commission (CCC). A Site Plan Adjustment is not appealable to the CCC (Jacqueline Phelps, CCC Letter dated October 22, 2015)

This Board letter includes: (1) the project information; (2) the Board's standard of review, and authority and law governing decision; (3) the Planning Division's recommended environmental determination; (4) a summary of the previous hearings and actions by decision-making bodies; (5) the grounds of appeal and staff's analysis; and (6) the public noticing requirements and public comments.

D. PROJECT INFORMATION

- 1. Property Owner/Applicant:** Greg and Michelle Elliot, 8120 Puesta del Sol, Carpinteria, CA 93013
- 2. Appellant:** Douglas and Jaleh White, 8128 Puesta del Sol, Carpinteria, CA 93013
- 3. Project Site Size, Location, and Parcel Numbers (Sub-Exhibit 3, Exhibit 2, Aerial Location, General Plan and Zoning Designations, and Land Use Maps):** The project site is located at 8120 Puesta del Sol, in the Rincon Beach Community, in the unincorporated area of Ventura County. The Tax Assessor's parcel number for the parcel that constitutes the project site is 008-0-170-200.
- 4. Project Description:** This matter involves the appeal of the Planning Commission's approval of a SPAJ (Case No. PL21-0035) to a Coastal PD Permit (Case No. PL17-0084) to replace an existing driveway and fence. The existing asphalt driveway would be removed and replaced with a concrete driveway, pedestrian paving squares, and Mexican beach pebbles. The pebbles will be confined to the designated areas by a landscape bender board or similar border. An existing six foot high fence located along the northeast and southwest property lines, including a trash enclosure located in the front setback adjacent to the southwest property line, will be replaced with a new fence, which will be three feet in height in in the 20 foot front setback, and six feet in height in the remaining portion. To protect the roots of a cypress tree located on the neighboring property to the southwest (APN 008-0-170-340), the project description includes tree protection measures and monitoring included in the Arborist Field Report dated March 5, 2021, and amended on August 6, 2021, which are to be adhered to during construction.

E. DE NOVO HEARING TO CONSIDER APPEAL CASE NO. PL21-0035

Standard of Review and Authority of Your Board

This land use matter comes before your Board as an appeal of the Planning Commission's May 5, 2022, 4-0 decision (Commission Boydstun abstained) to deny the appellant's appeal (AD21-0006) and uphold the Planning Director's decision to approve

the applicant's requested SPAJ Case No. PL21-0035 to authorize the repairs and maintenance of an existing driveway and fence.

This appeal comes to your Board for a hearing de novo, or anew. This means your Board is required to conduct a public hearing regarding the Planning Commission's approval of the subject SPAJ application, just as if the matter came to your Board in the first instance. Your Board must decide whether to approve or deny the SPAJ request pursuant to Section 8181-10.4.2(a) of the CZO, which, requires that the proposed land use, structure or construction "would not alter any of the findings made pursuant to Section 8181-3.5, nor any findings of approval for the permit or any findings contained in the environmental document prepared for the project, and would not have any adverse impact on the subject site or surrounding properties." It further requires that the proposed land use "shall not circumvent the purpose or lessen the effectiveness of the approved permit conditions and must be consistent with all other provisions of the [Local Coastal Program]."

Your Board is not required to give any deference to the May 5, 2022, Planning Commission's decision to uphold the challenged actions. Your Board may make the same decision as the Planning Commission if, based on your Board's independent judgment, your Board finds the appeal to be persuasive and supported by substantial evidence in the record. While your Board should consider the appeal points raised by the appellant (Exhibit 3), your Board is not limited by them. Whether or not the appeal should be granted is a consequence of your Board's final determination on whether the requested SPAJ should be issued.

Law Governing Decision

The applicant's SPAJ Case No. PL21-0035 seeks authorization to replace an existing driveway and fence.

CZO Section 8181-10.4.2(a), Discretionary Modification, authorizes the Planning Director to grant a SPAJ for a change to a permit if it meets the requirements described below. CZO Section 8181-10.4.2(a) lists 11 non-exhaustive examples of changes that qualify for a SPAJ.

The Planning Director approved the SPAJ by determining that the request meets the above requirements, and finding that the project qualified under the following three categories of changes under CZO section 8181-10.4.2(a):

- (1) Changes to conditions of approval that do not circumvent the purpose or lessen the effectiveness of the approved permit conditions [Ventura County CZO Section 81 81 -1 0.4.2.a(1)]
- (2) Changes in structure location, including reorientation of structures, provided the structures are situated within the same general footprint as in the approved permit [Ventura County CZO Section 81 81 -1 0.4.2.a(4)].

- (3) A cumulative increase not exceeding ten percent of the approved area of walls, fences, or similar structures, provided the development continues to meet minimum screening requirements, and that the increase does not negatively affect the ability of the public to access coastal waters or nearby inland recreation areas [Ventura County CZO Section 8181-10.4.2.(a)(9)].

As the County's decision-making authority in this de novo appeal hearing, your Board must find that the SPAJ meets the following requirements of CZO Section 8181-10.4.2(a) in order to approve the request:

- (1) That the requested project would not alter any of the findings made pursuant to Section 8181-3.5, nor any findings of approval for the permit or any findings contained in the environmental document prepared for the project;
- (2) That the requested project would not have any adverse impact on the subject site or surrounding properties;
- (3) That the requested project would not circumvent the purpose or lessen the effectiveness of the approved permit conditions; and
- (4) That the requested project is consistent with all other provisions of the LCP.

The SPAJ consists of the replacement of an existing driveway and fence. The conditions of Coastal PD can still be met, including Condition of Approval Nos. 20 and 21, for the tree root protections during construction. All fencing in the 20-foot front setback will be three feet in height (from grade) with the remaining portion measuring six feet in height (from grade). As set forth more fully in the Planning Director's Approval Letter (Sub-Exhibit 4), the Planning Commission Staff Report (Exhibit 1), and this Board Letter, the applicant's requested SPAJ would not alter the administrative or CEQA findings made at the time the original Coastal PD Permit (Case No. PL17-0084) was approved. In addition, the proposed changes would not have an adverse impact on the subject site or surrounding properties. Nor does the requested project circumvent the purpose or lessen the effectiveness of the approved permit conditions. It is also consistent with the regulations of the CZO and the LCP.



Existing 6-foot fence to be replaced and reduced to 3-feet within front yard setback [CZO Sec. 8175-3.11].



F. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

The proposed project is categorically exempt pursuant to CEQA Guidelines Section 15301, (Existing Facilities) for the repair or minor alteration of existing structures involving negligible or no expansion of existing or former use. The current SPAJ is considered repair and maintenance of an existing driveway and fence, a common practice for structures accessory or incidental to residential uses. All work will occur in previously disturbed areas. It is also categorically exempt under CEQA Guidelines Section 15302 (Replacement or Reconstruction) for the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, due to the removal and replacement of an existing driveway and fence. Staff determined that no unusual circumstances or other exceptions to this categorical exemption apply (CEQA Guidelines section 15300.2).

G. CONSISTENCY WITH THE GENERAL PLAN AND CZO

For the reasons set forth in the Planning Commission Staff Report (Exhibit 1), this project is consistent with the General Plan and the CZO.

H. PREVIOUS HEARINGS AND ACTIONS BY COUNTY DECISION MAKERS

Planning Director Decision

On August 18, 2021, the Planning Director granted a SPAJ Case No. PL21-0035 of Coastal PD Permit No. PL17-0084 to authorize the replacement of an existing driveway and fence.

On August 27, 2021, the appellant filed a timely appeal of the Planning Director's decision to approve the proposed SPAJ to the Coastal PD Permit.

Planning Commission Hearing

On May 5, 2022, a Planning Commission public hearing was conducted regarding the appeal of the Planning Director's approval of the SPAJ Case No. PL21-0035. The appellant provided 30 grounds of appeal (Sub-exhibit 5, of Exhibit 1). The applicants and their attorney testified and provided a PowerPoint presentation supporting the appeal (Sub-exhibit A of Exhibit 1). Sara Cipani, and the appellant's attorney Susan Petrovich, testified and provided two PowerPoint presentations objecting to the project (Sub-exhibits B and C of Exhibit 1). After closing the public hearing and deliberations, the Planning Commission voted 4-0 (Commissioner Boydstun abstained) to uphold the Planning Director's approval of the SPAJ and denied the appellant's appeal (Resolution R-22-16, Sub-exhibit D of Exhibit 1).

On May 12, 2022, the appellant timely appealed the Planning Commission's decision to your Board. (Exhibits 3 and 4)

I. APPEAL OF PLANNING COMMISSION DECISION

Grounds of Appeal and Staff Analysis

On May 13, 2022, the appellant filed a timely appeal of the Planning Commission's decision to approve the proposed SPAJ. The appeal form and attachments are included in Exhibit 3. The appellant's attorney, Susan Petrovich, submitted a letter that included eight grounds of appeal with the appeal form attached (Exhibit 4). The specific grounds of appeal, listed verbatim and in italics, are listed below. (See also Exhibits 3 and 4). County staff responses follow the Grounds of Appeal.

May 13, 2022, Appellant's Board of Supervisors Appeal Form (Exhibit 3):

"The project has been piece-mealed in violation of CEQA, resulting in the project appearing to have fewer environmental impacts than actually will be occurring. The Planning Commission on December 13, 2018, approved enlargement of an existing residence at 8120 Puesta del Sol, Carpinteria, CA, owned by Greg and Michelle Elliot. In response to an appeal filed by the Appellants, Doug and Jaleh White, the Planning Commission instructed County staff to beef up the conditions to ensure that no ground disturbance would be allowed in order to protect 3 magnificent heritage trees located on the Whites' property. Staff mistakenly characterized the project as a Site Plan Adjustment."

Susan Petrovich Letter and Appellant's Ground of Appeal No. 1 (Exhibit 4):

"On behalf of the Whites, we submit the attached appeal from the Planning Commission's approval of the second phase of a piece-mealed project on the Elliot property and we ask that the Elliots' project be denied."

Staff Response: Pursuant to CEQA Section 21159.27, a project may not be divided into smaller projects to qualify for one or more exemptions. The test for piecemealing or determining an initial project must analyze a subsequent project, is whether the subsequent project "is a reasonably foreseeable consequence of the initial project" and the subsequent project "will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396.) There is no improper piecemealing, however, where the projects are "independently justified separate projects." (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1226; see also *id.* at p. 1223 [no piecemealing "when the projects have different proponents, serve different purposes, or can be implemented independently"]; see also *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 99.) Further, there is no improper piecemealing merely because a subsequent project is reasonably foreseeable—rather, it must be a reasonably foreseeable *consequence* of the initial project. (*Banning Ranch Conservancy, supra*, 211 Cal.App.4th at pp. 1225-1226.)

Here, the current project to replace the fence and driveway is separate and independent from the initial project's additions to the interior and exterior of the dwelling; they could be independently justified and independently implemented. In addition, there is no evidence from the appellant to indicate that the present project will change the scope or nature of the initial project or its environmental effects.

The repair and maintenance of two common residential accessory structures (a fence and driveway) is not a reasonably foreseeable consequence of the second-story home addition authorized in 2018 with the granting of Coastal PD Permit No. PL17-0084 by the Planning Commission. The current proposal under appeal is an independently justified separate project. Thus, no piecemealing under CEQA has occurred.

Based on the above discussion, this ground of appeal is without merit.

Appellant's Ground of Appeal No. 2 (Exhibit 4):

"The driveway will require significant earth disturbance, which is precisely what the Planning Commission voted to prevent in 2018."

Staff Response: The Project Description of the 2018 Coastal PD Permit (Condition No. 1 (Case No. PL17-0084)) states, "No ground disturbance is proposed as all new development is located within the existing building footprint." This project description was specific to the construction of a second story addition. However, the current proposal of

the SPAJ will result in ground disturbance (see Section D.4, Project Description, of this Board Letter).

In accordance with the California Building Code (CBC) Appendix J, a Grading Permit is not required for excavation that is less than 2 feet in depth and does not exceed 50 cubic yards or does not create a cut slope greater than 5 feet measured vertically upward from the cut surface of natural grade and is not steeper than 2 units horizontal to 1 unit vertical. The proposed re-paving of the driveway will occur in an isolated, self-contained area, with no danger to the public, nor would construction activities adversely affect adjoining properties. The area will be excavated approximately 9 inches. Estimated earthwork is below 50 cubic yards. The appellant has provided no evidence that the project site or scope of work are not accurately described or depicted in the application documents.

Based on the above discussion, this ground of appeal is without merit.

Appellant's Ground of Appeal No. 3 (Exhibit 4):

"The project description doesn't include valuable information. For example, there is no description of how deep the compaction will extend, but it is clear that the Monterey Cypress tree roots will be impacted."

Staff Response: The Arborist report dated March 5, 2021, notes the proposed [driveway] removal plan will consist of 5-inch aggregate concrete over 4 inches of compacted aggregate base (9 inches total). Over-excavation is typically only required if the area is characterized with expansive soils; however, this is a coastal location characterized by active beach deposits and active wash deposits associated with Rincon Creek which are not expansive soils (personal communication with Ben Fischetti, PWA Registered Civil Engineer 69360). Roots have been identified with a diameter of one-sixteenth of an inch (or less) to three-quarters of an inch in diameter below the active area of the driveway. The SPAJ is conditioned to require the arborist be on site during construction activity.

Based on the above discussion, this ground of appeal is without merit.

Appellant's Ground of Appeal No. 4 (Exhibit 4):

"The Elliots hired an arborist, who dug two narrow trenches approximately 8-11" inches deep in the asphalt driveway but didn't trench under the Elliots' house despite the large area under the house where the concrete will be installed. This investigation was neither deep enough (because the concrete installation will impact well over a foot of depth) nor extensive enough (no trenches under the house) to determine the locations of large Monterey Cypress roots."

Certified arborist Bill Speiwak prepared an Arborist Field Report dated March 5, 2021, and an amended report on August 6, 2021 (Sub-exhibit 9). Two separate trenches approximately 8 to 11 inches deep were excavated at the driveway. The exploratory trench was excavated to a depth of a standard design of a driveway to ascertain potential

impacts to tree roots. The arborist determined there will be no impact to the cypress tree from the removal of the asphalt and construction of the new concrete driveway. The appellant was present during this field investigation. Further, during all construction activities for the driveway and fence, the arborist will be onsite to monitor the work (Sub-exhibit 10, Condition Nos. 1, 20 and 21).

Based on the above discussion, this ground of appeal is without merit.

Appellant's Ground of Appeal No. 5 (Exhibit 4):

"The fence in question largely straddles the shared property line between the White and Elliot properties, but at the south end, the fence meanders onto the Elliot property and on the north end, it meanders onto the White property. Virtually all of the fence posts are located entirely on the Whites' property. The Whites have a well-landscaped front yard that provides a welcome escape on hot days, but County ordinances require that a new fence installation be only three (3) feet high. The existing fence, installed long before the Coastal Act adoption, is approximately six (6) feet high. The Whites do not consent to disturbance of any portion of the fence that is wholly or partially on their property.

Not only would fence replacement deprive the Whites of the security of the existing fence, but it also would deprive them of privacy and the ability to allow their large dog to use the front yard."

Staff Response: The applicant submitted an ALTA/NSPS Land Title Survey¹, dated October 7, 2020 (Sub-exhibit 11) showing the fence is located on the applicant's property. The appellant retained RDH to survey the location of the fence (Exhibit 5). The RDH survey, April 20, 2022, indicates the fence straddles the common property line and meanders into the southeast portion of the Elliot property. As of the date of this staff report, no Record of Survey has been filed with the County Surveyor's Office.² It is true that, to the extent there is conflicting evidence on this issue, your Board must weigh the conflicting evidence and should only grant the SPAJ if it concludes that the project is on the applicant's property. However, as merely the permit-issuing authority, your Board is not issuing a binding legal determination on the issue of the property line and need only determine that substantial evidence in the record supports concluding that the fence is located on the applicant's property. To the extent the appellant disagrees with this conclusion, it is a dispute to be resolved as a private civil matter between the two private landowners.

¹ The purpose of an ALTA/NSPS Survey is to remove the "survey exception language" from the title insurance policy, also known as providing "extended coverage". ALTA Surveys are used as a title insurance underwriting tool.

² A record of survey is a detailed map that documents and identifies the physical land boundaries or property lines. A licensed land surveyor prepares the map for the purposes of verifying the acreage of a parcel of land, encroachments by adjoining properties, or for the development of a property.

In addition, pursuant to CZO Section 8175.3.11 (a) no fences, walls, or hedges over three feet high may be placed in the required setback area adjacent to a street. A maximum six-foot-high wall, fence or hedge may be located anywhere on the lot except in the clear sight triangle or required setback area adjacent to a street. The proposed fence height complies with CZO Section 8175-3.11(a). If the appellant seeks privacy, security, and to confine their German Shepherd, they can request a variance pursuant to CZO Section 8181-4 to install a fence on their property greater than three feet adjacent to Puesta Del Sol, subject to review and findings that can support approval of the request.

Based on the above discussion, this ground of appeal is without merit.

Appellant's Ground of Appeal No. 6 (Exhibit 4):

"The Elliots' arborist didn't even address the significant adverse impacts the fence replacement will have on the Monterey Cypress roots, despite the fact that there is a big, fat tree root running along the surface, under the fence, across the ground surface of the Elliot property, and under the Elliot house."

Staff Response: The Arborist Field Report dated March 5, 2021 and amended on August 6, 2021 (Sub-exhibit 9) was completed by certified arborist Bill Spiewak, and states that excavation for fence posts will be done manually. Further, all ground disturbing activities will be monitored by the arborist until the proposed work is complete. In the event large roots are encountered (greater than 1 inch in diameter) per the arborist's direction the location of fence posts will be adjusted and if necessary, the proposed fence will be cantilevered over root zones. These recommendations are included as conditions of approval (Sub-exhibit 10, Condition Nos. 1, 20, and 21).

Based on the above discussion, this ground of appeal is without merit.

Appellant's Ground of Appeal No. 7 (Exhibit 4):

"Rather than confining their "beautification" project to their own property, the Elliots propose to extend landscaping and Mexican beach stones out onto a portion of Puesta del Sol. The installation will have a curb around it so it will deprive the Whites of the use of a portion of their access easement. The Whites do not approve what would be a trespass and encroachment."

Staff Response: The applicant submitted a Site Plan (Sub-exhibit 6), an agreement with the Rincon Point Property Owners Association (RPPOA) (Sub-exhibit 7), and documentation from the following easement holders: SoCalGas, Carpinteria Sanitary District and Casitas Water (Sub-exhibit 8). The RPPOA agreed to allow a portion of the driveway apron to be constructed on Puesta del Sol Road and required the applicant to maintain the driveway apron. Easement holders indicated the proposed driveway would not conflict with utilities within their easements.

As indicated on the Site Plan (Sub-exhibit 6), Mexican beach pebbles would be installed north of the Elliot's residence. On the northwestern portion of the Elliot property, the pebbles will extend to where the existing trash enclosure is located and does not encroach into the access easement. On the northeastern portion of the Elliot property, the pebbles extend to where existing landscaping is located. The pebbles will be confined to the designated areas by a landscape bender board or similar border which are typically 4 inches in height. Failure to install the driveway and landscape improvements as depicted would result in a permit inconsistency subject to enforcement of performance standards (Sub-exhibit 10, Condition of Approval No. 1, Project Description).

Note, as with the property line issue, disputes over the use of a private road easement constitute private civil matters between the parties that are not addressed in the land use permitting process. The issue of whether there is a misuse or overburdening of a private road easement is a dispute between the private parties, not the County land use decision makers.

Based on the above discussion, this ground of appeal is without merit.

Appellant's Ground of Appeal No. 8 (Exhibit 4):

"In addition to adversely impacting the Whites' access, the Elliots propose to put loose rocks in close proximity to the intake pipe for carrying floodwater from the neighborhood to the creek. There is no other way to drain what is a low spot in Puesta del Sol. The proximity to the ocean and the creek results in periodic flooding during heavy rain and high tides. The existing drain is grossly undersized. The addition of a pile of small, loose round stones that could be carried by the retreating floodwater is likely to clog the intake. The result will be ponding across this entire section of Puesta del Sol, which will adversely impact the Whites and many neighbors. It bears mentioning that the plans don't disclose that the project includes an elevated curb within Puesta del Sol."

Staff Response: See response to Grounds of Appeal No. 7 (above) regarding confining the pebbles to the designated areas as indicated on the Site Plan (Sub-exhibit 6).

At the May 5, 2022, Planning Commission hearing, Jim O'Tousa, PWA Registered Geologist No. 1393, testified movement of the pebbles is dependent on the velocity of the water. If the runoff is very muddy with a lot of sediment and organic debris, the pebbles could get picked up and together with the sediment, could clog the drain, however the pebbles alone would not clog the drain. Additionally, the pebbles are replacing impervious asphalt thereby increasing infiltration and lessening runoff from the existing condition of the property.

Based on the above discussion, this ground of appeal is without merit.

J. APPELLANTS' RECOMMENDED ACTIONS

The appellant requests that your Board grant the appeal and deny the project. Specifically, the appeal form states:

"In addition to being unnecessary, the proposed project should not spill over the Elliot property line an onto the Whites' property and access easement. It also should not have significant impacts upon the Elliot's neighbors."

Staff Response to the Requested Actions:

Except for the Whites, no other neighbors have objected to the Elliot's SPAJ. Based on the above discussion, and the entirety of the information provided in the administrative record, staff recommends that the requested SPAJ be granted, and the appeal denied.

K. NOTICE AND PUBLIC COMMENTS

The Planning Division provided public notice regarding the Board of Supervisor hearing in accordance with Section 65091 of the Government Code and Section 8181-6.2 et seq. of the Coastal Zoning Ordinance. On January 13, 2023, the Planning Division mailed notice to owners of property within 300 feet and residents within 100 feet of the property on which the project site is located and placed a legal ad in the *Ventura County Star*.

This Board item was reviewed by County Counsel and the County Executive Office. If you have any questions regarding this matter, please contact me at (805) 654-2497 or Jennifer Trunk at (805) 654-2465.



Dave Ward, Planning Director
Ventura County Planning Division

Exhibit 1: Planning Commission Staff Report dated May 5, 2022, including sub-exhibits 2 through 13 and A through D

Sub-Exhibit 2	December 13, 2018, Planning Commission staff report
Sub-Exhibit 3	February 15, 2018, Planning Director staff report
Sub-Exhibit 4	August 18, 2021, Planning Director Approval Letter
Sub-Exhibit 5	August 27, 2021, Appellant's Grounds of Appeal to Planning Commission
Sub-Exhibit 6	Site Plan
Sub-Exhibit 7	Agreement with the Rincon Point Property Owners Association
Sub-Exhibit 8	Documentation from Easement Holders
Sub-Exhibit 9	Arborist Field Report dated March 5, 2021, and amended on August 6, 2021
Sub-Exhibit 10	Final Conditions of Approval for Site Plan Adjustment
Sub-Exhibit 11	October 7, 2020, ALTA/NSPS Land Title Survey
Sub-Exhibit 12	Site Plan Adjustment Application
Sub-Exhibit 13	October 22, 2015, California Coastal Commission Letter, Appealability of Permit Modifications
Sub-Exhibit A	Powerpoint Presentation (Greg Elliot, Applicant)
Sub-Exhibit B	Powerpoint Presentation (Susan Petrovich, Appellant's Attorney)
Sub-Exhibit C	Powerpoint Presentation (Sara Cipani)
Sub-Exhibit D	Planning Commission Resolution R-22-16

Exhibit 2: Board Resolution Making Findings of Fact and Conclusions of Law for PL21-0035

Exhibit 3: May 13, 2022, Appellant's Board of Supervisors Appeal Form and Attachments

Exhibit 4: May 12, 2022, Susan Petrovich Letter

Exhibit 5: RDH Fence Location Exhibit