



Planning Commission Staff Report – Hearing on December 13, 2018

County of Ventura • Resource Management Agency • Planning Division

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GMB ELLIOTT FAMILY, LLC. PLANNED DEVELOPMENT (PD) PERMIT CASE NO. PL17-0084 – APPEAL OF THE PLANNING DIRECTOR DECISION REGARDING PD CASE NO. PL17-0084

A. PROJECT INFORMATION

1. **Request:** The Applicant requests approval of a Coastal Planned Development (PD) permit (Case No. PL17-0084) for the construction of a 525-square foot (sq. ft.) second story addition, new interior stairway, lattice overhang, and first floor renovation of the existing 1,930 sq. ft. single-family dwelling.
2. **Appellant:** Douglas M. and Jaleh K. White, 8128 Puesta Del Sol, Ventura, CA 93013
3. **Applicant/Property Owner:** Gregory Elliott, 2148 Troon Road, Houston, TX 77019
4. **Applicant's Representative:** Neal Maguire, Esq. of the law firm Ferguson, Case Orr Paterson LLP, 1050 South Kimball Road, Ventura CA 93004
5. **Decision-Making Authority:** Pursuant to the Ventura County Coastal Zoning Ordinance (CZO) (Section 8174-5 and Section 8181-3 et seq.), the Planning Director is the decision-maker for the requested PD Permit. Pursuant to CZO Section 8181-9.1(a), the Planning Commission shall consider appeals of Planning Director decisions.
6. **Project Site Size, Location, and Parcel Number:** The 8,767-square foot property is located at 8120 Puesta Del Sol, near the intersection of Puesta Del Sol and Buena Fortuna, in the Rincon Point 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 (Exhibit 2).
7. **Project Site Land Use and Zoning Designations:**
 - a. Countywide General Plan Land Use Map Designation: Existing Community (Exhibit 2)
 - b. Coastal Area Plan Land Use Map Designation: Residential - Medium 2.1-6DU/acre (Exhibit 2)

- c. Zoning Designation: CR1-7,000 sq. ft. (Coastal One-Family Residential, 7,000 sq. ft. minimum lot size) (Exhibit 2)

8. Adjacent Zoning and Land Uses/Development (Exhibit 2):

| Location in Relation to the Project Site | Zoning | Land Uses/Development |
|--|-------------------|---------------------------|
| North | CR1-7,000 sq. ft. | Single family Residential |
| East | CR1-7,000 sq. ft. | Single family Residential |
| South | Pacific Ocean | Pacific Ocean |
| West | CR1-7,000 sq. ft. | Single family Residential |

- 9. History:** On February 14, 2018, Mr. Douglas and Mrs. Jaleh White, property owners of 8128 Puesta Del Sol (APN 008-0-170-345), the lot immediately west of the project site, submitted an e-mail to the Planning Division stating their concerns with the proposed project that included, but were not limited to, the second-story addition impacting their view from the rear of their house, the chimney height, storm water run-off and flooding, and incomplete application materials. The White's primary concern however, was potential impacts to a Monterey Cypress tree located on the northeast portion of their property. The Whites allege staff did not adequately analyze the adequacy of the existing mixed foundation system and its ability to support the second-story addition. As a result, future ground disturbance associated with foundation modifications would result in potential impacts to the Monterey Cypress tree.

On February 15, 2018, a Planning Director hearing was held. Ms. Giti White, representing Mr. Douglas and Ms. Jaleh White, attended the hearing. Ms. Giti White testified that the staff report did not provide assurances that modifications to the foundation would not occur; nor was any information provided that a protected tree would not be impacted from construction encroaching on the tree canopy and its critical root zone.

On March 26, 2018, the Planning Director approved the requested PD Permit subject to conditions of approval. See the letter from Jennifer Welch to GMB Elliott Family, LLC, dated March 26, 2018 ("Approval Letter") (Exhibit 3), staff report for the Planning Director hearing on February 15, 2018 (Exhibit 4), and conditions of approval that the Planning Director imposed on the PD Permit (Exhibit 5), which set forth the rationale for the Planning Director's decision to approve the requested PD Permit.

In response to the White's concerns, the Approval Letter (Exhibit 3) describes that if any reinforcement of the existing foundation was required it would be installed using a product called a helical pier, a non-invasive foundation that does not disturb the surrounding soils and can be installed under the existing house. The helical pier has a maximum diameter of 6" and penetrates the lower bedrock

layer until it achieves adequate bearing levels. Once this is complete, the pier is bolted to the existing footing. Further, on February 20, 2018, story poles were erected by the Applicant's architect, depicting the outline of the eave and ridge height of the proposed second-story addition. Photos were provided to the case planner that show the cypress tree will not be impacted nor will there be reason to prune the tree (Exhibit 3). Nonetheless, Condition No. 20 was added to the Coastal PD permit which requires the Applicant to comply with the County's Tree Protection Regulations set forth in the CZO Section 8178-8-07, including requiring the Applicant to submit an Arborist Report prior to the alteration of any limbs or branches that extend over the common property line.

On April 6, 2018, Mr. Douglas and Mrs. Jaleh White, the Appellants, filed a timely appeal of the Planning Director's decision to approve the requested PD Permit for the reason set forth in the Appellant's appeal application (Exhibit 6) and discussed in Section C of this staff report (below).

In May of 2018, Planning Division staff requested Roman Smith, Ventura County Building & Safety Division Senior Plan Check Engineer, to review the Applicant's Structural Engineer's plans and reports that show foundation improvements such as helical piers are not necessary. On July 7, 2018, Roman Smith confirmed that based on the information Van Sande Structural Consultants, Inc. provided, it does not appear that a new foundation is required for the proposed project. In addition, an arborist report by Bill Spiewak, dated July 23, 2018 (Exhibit 8), was provided to the Planning Division, which further confirms that no roots were seen around the caissons and it is extremely unlikely that any significant root growth is below the Applicant's property. Therefore, the proposed project is not expected to impact the root system of the cypress tree or any other tree.

On August 7, 2018, County staff met with the Appellants to discuss the proposed project and grounds of appeal. Following that meeting, on August 23, 2018 Planning Division staff provided the Applicant and Appellant suggested revisions to the PD conditions of approval. Also, on September 11, 2018, Roman Smith provided plans and reports from Van Sande Structural Consultants, Inc., to the Appellant that indicate the existing piers foundation has the strength and durability to support the proposed project. Additional revisions to the PD's conditions of approval were provided by the Planning Division staff in September 2018. In the Project Description (Condition No. 1), the text was amended to include the following statement:

"The proposed second story addition will not require supplemental reinforced concrete pier foundations including but not limited to new caissons and/or helical piers. No foundation work is authorized by this Coastal PD Permit."

In accordance with Condition No. 4 of the PD, if it was determined during construction the foundation needed to be reinforced, the Applicant would be required to apply for and obtain a modification to the PD prior to any ground

disturbance. Moreover, as stated above, Condition No. 20 of the PD requires the Applicant to comply with the County's Tree Protection Regulations set forth in CZO Section 8178-7 et seq. (Exhibit 7, Case No. PL17-0084 Amended Conditions of Approval).

On September 28, 2018, the Appellants responded with a request for the Applicants to protect two additional trees located in the southern portion on the White's property. The Applicants rejected the proposed conditions as revised and requested the project be scheduled for a Planning Commission hearing.

10. Project Description: The Applicant is requesting approval of a Coastal Planned Development (PD) Permit for a 525 sq. ft. second story addition, new interior stairway, new 65 sq. ft. lattice overhang, and a first-floor renovation of the existing 1,930 sq. ft. beachfront single-family dwelling with an attached two-car carport positioned underneath the residence's master bedroom

With the above changes, the single-family dwelling will encompass a total of 2,455 sq. ft. of gross floor area. The existing single-family dwelling and attached two-car carport was constructed in 1959 on a grade beam and caisson foundation system.

The property is considered legal non-conforming as a result of the existing raised decks and ramps located within the setbacks and the residence's uniquely designed layout of four separate living areas (kitchen and living area unit and three separate bedroom and bathroom units) having no internal access to each other. The existing building footprint of the single-family dwelling, attached two-car carport, and raised decking will remain the same. The proposed second story addition of 525 sq. ft. will be accessed by a new interior stairway and will contain two bedrooms and a bathroom. The proposed addition would remove less than 50 percent of the existing residence's roof area and would continue to maintain its legal non-conforming status in accordance with Section 8182-7.1.1 of the CZO.

The first-floor renovation consists of: a) conversion of the fourth bedroom into a TV room; b) conversion of a full bathroom into a laundry room and half bath; and c) the addition of an interior stairway to access the second-floor addition. The interior of the residence will be reconfigured by combining two of the one bedroom and bath units into one unit consisting of three bedrooms and two and a half baths, thereby resulting in a total of three separate units.

The height of the single-family dwelling with the second level addition will be 22 feet 2-1/8 inches at the averaged midpoint and 23 feet 2-1/2 inches at the ridgeline peak.

The trash/recycling area will be located to the west of the existing carport. No grading or vegetation removal is proposed. No ground disturbance is proposed

as all new development is located within the existing building footprint. The proposed second story addition will not require supplemental reinforced concrete pier foundations, including but not limited to new caissons and/or helical piers. No foundation work is authorized by this Coastal PD Permit.

The subject property is accessed directly from Puesta Del Sol, a private street within the gated Rincon Point community, at the southern terminus of Bates Road in the North Coast area of unincorporated Ventura County. The project is within the mapped floodway of Rincon Creek. The Casitas Municipal Water District will continue to provide water and the Carpinteria Sanitary District will continue to provide sewage disposal for the residential use of the property.

The Project does not include, and this Coastal PD Permit does not authorize, the removal of any native or non-native vegetation. The single-family dwelling, as well as construction activities associated with the single-family dwelling, will not extend beyond the boundaries of the subject property.

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the proposed project is subject to environmental review.

However, the proposed project qualifies for a Class 1 (Existing Facilities) Categorical Exemption pursuant to CEQA Guidelines Section 15301(e)(1) of the CEQA Guidelines. The Class 1 exemption applies to projects that involve additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 sq. ft., whichever is less. As stated in Section A.10 of this staff report (above), the proposed project consists of the interior renovations and the addition of 525 sq. ft. of new development in an area that was previously disturbed as part of the construction of the original single-family dwelling.

Furthermore, none of the exceptions set forth in Section 15300.2 apply to the proposed project. Therefore, this project is categorically exempt pursuant to Section 15301(e)(1) of the CEQA Guidelines.

C. APPELLANT'S GROUNDS OF APPEAL AND PLANNING DIVISION STAFF RESPONSES

The Appellant's request and grounds of appeal are set forth in the appeal application materials that are attached to this staff report (Exhibit 6). As stated in the appeal application, the Appellant is requesting the Planning Commission to require (a) the Planning Division reevaluate the application and hold another hearing once such reevaluation has been completed or (b) deny the application. The Appellant contends that the Planning Director's decision is not supported by evidence presented for consideration (Ground of Appeal No. 1), inadequate conditions of approval conflict with

local policies (Ground of Appeal No. 2), impacts of foreseeable foundation improvements have not been analyzed (Ground of Appeal No. 3), and adequacy of existing mixed foundation remains undetermined (Ground of Appeal No. 4).

The grounds of appeal are reproduced verbatim below along with the Planning Division staff response.

Ground of Appeal No. 1

Appellant's Statement: *As a result of our participation in the public process we have the following concerns regarding a pattern of omissions from the Permit Application and Staff Report.*

Missing Documentation:

- 1. Documents and discussions not in the public record. No design calculations or structural engineering report. Engineering report for 2015 pile repair omitted from public record then provided after we discovered it in Building and Safety.*
- 2. Story poles only briefly erected on February 20th - five days after the Planning Director's Hearing.*
- 3. Inadequate analysis of the mixed foundation and omission of four aging timber piles which are the sole support of the master bedroom and will likely need repair since they are at or near the end of their structural life. Such foreseeable repairs could encroach on the tree protected zone of the Monterey Cypress.*
- 4. No analysis of the implication of the debris flow of January 9, 2018 which covered the front part of the Elliott property, extending to the back of the carport. This kind of event exposes the foundation directly under the project to unanalyzed risks.*

Staff Response to Ground of Appeal No. 1:

1. On January 21, 2015, the Planning Division approved Zoning Clearance Case No. ZC15-0015 for repair and maintenance of 38 concrete foundation pilings that support the existing single-family dwelling. The scope of the permitted work was limited to the work detailed in project plans and letter from Van Sande Structural Consultants, Inc. dated January 6, 2015.

On March 23, 2018, the Whites requested review of the Planning Division files; however, the Building & Safety Division is the repository for design calculations and structural engineering reports because structural engineering calculations and reports are reviewed, finalized, and approved during the building permit process. Upon notification that this was the information being requested,

Planning Division staff coordinated with Building & Safety Division staff, and the requested documents were provided to the Whites.

2. Following the Planning Director hearing, on February 20, 2018, the Applicant decided to erect story poles and provided photos to the Planning Division to address the issue that was raised at the February 15, 2018, Planning Director hearing. The story poles were erected depicting the outline of the eave (parallel to the property line) and ridge height of the proposed second-story addition. Photos were provided to the Planning Division that show the distance between the second-story addition and the tree, confirming the proposed second-story addition would not impact the Monterey Cypress tree nor necessitate the removal of the tree limbs on the Appellant's property.
3. Gregory Van Sande, Structural Engineer State License No. 30964, provided a letter dated April 10, 2018 (Exhibit 9), indicating that the existing pile foundations have been reinforced using a Simpson FX70 fiber-reinforced jacket, grouted using 5,000 psi high-strength epoxy grout and supported with (8) #6 vertical reinforcing bars with associated circumferential steel. The Simpson FX70 jackets have increased the strength of the pier foundation by over 300 percent. Van Sande Structural Consultants, Inc. has confirmed that these piers have the strength and durability to support a second-story addition.

Van Sande Structural Consultants, Inc., provided another letter dated April 27, 2018 (Exhibit 10), indicating that the four existing wood piers on the north and northeast side of the structure were reviewed during the concrete caisson improvements installed in 2015. The letter further stated that the existing wood piers and the new concrete reinforced piers are in excellent condition. The new addition to the structure will be located in an area that will not induce any additional load to the existing wood piers and will not require any structural changes to these pilings. If additional foundation reinforcement was necessary, a helical pier could be installed. A helical pier has a maximum diameter of six inches and penetrates the lower bedrock layer until it achieves adequate bearing levels, before it is bolted to the existing footing. This technique is considered a non-invasive foundation that does not disturb the surrounding soils and can be installed under the existing house (Exhibit 9). The Applicant is not proposing any additional foundation reinforcement, however, if additional reinforcement were necessary, Condition No. 4 of the PD (Exhibit 7) would require the Applicant to contact the Planning Director to determine if the proposed activity requires a modification of this Coastal PD Permit.

4. In the early hours of January 9, 2018 intense rains occurred over the Santa Barbara County foothills scorched by the Thomas Fire. Drainages for water were inundated by a large volume of mud, boulders, and debris. Unlike Hot Springs, Cold Springs, Montecito, and Carpinteria Creeks which experienced debris flow events consisting of large volumes of mud and debris, no debris flow occurred within the Rincon Point Community on January 9, 2018. According to Jim

O'Tousa, County Engineering Geologist 1393, the subject property is partially within the floodway and during periods of heavy rainfall, there may be flooding. Furthermore, the single-family residence is built on piles that provide support to the residence even if portions of the foundations are exposed in an extreme erosional event. The Earth Systems Geotechnical Report, dated June 6, 2017, prepared for the project site, indicates that bedrock is at a depth of 8 feet below the ground surface and that the existing residence is elevated above grade and supported by a grade beam and caisson (pile) foundation system which is embedded into the bedrock. Being partially within the floodway, the property will remain subject to periodic flooding and flood damage; however, the residence is designed on piles to provide support should erosion occur beneath portions of the foundation system (Geotechnical Engineering Report, Earth Systems Southern California, June 6, 2017).

Ground of Appeal No. 2

Appellant's Statement:

Errors in application:

- 1. No acknowledgement of a large protected tree overhanging the construction site.*
- 2. No mention of Carpinteria Sanitary District pump station and easement directly under building site. This pump station and easement has a restrictive covenant running with the land. These constraints were not analyzed in the Staff Report or addressed in the Planning Director's Decision Letter.*
- 3. No acknowledgement that the property discharges directly into an ESHA (Rincon Creek Estuary)*
- 4. No mention of Cultural Resources although Rincon Point is well known as the site of the Chumash village of SHUKU which is a complex of archaeological sites particularly rich in artifacts and information.*

Staff Response to Ground of Appeal No. 2:

1. The Planning Director Staff Report Section C, Consistency with the General Plan – Coastal Act Section 30240, Environmentally Sensitive Habitat Areas, mentions trees are near the project site (Exhibit 4, page 16). While the Monterey Cypress tree was not specifically called out, Planning Division staff determined that no impacts to trees would occur because all new development is located within the existing building footprint. To address any potential impacts to the Monterey cypress tree, Planning Division amended the Conditions of Approval and added Condition No. 20 requiring the Applicant to comply with the County's Tree Protection Regulations (Exhibit 7).

2. On May 23, 2013, the Rincon Point Property Owners Association granted an easement [County Recorder Instrument No. 20130523-00093745-0] to the Carpinteria Sanitary District for sewer purposes. The easement authorizes the District the right to construct, use, operate, maintain and repair underground sewer pipelines and appurtenances within the right-of-way. Repair and maintenance of the sewer lateral and pump station that extends onto the subject property is the property owner's responsibility. At the August 7, 2018 meeting with the Appellants, Roman Smith, Building & Safety Division Senior Plan Check Engineer, determined that a description of the pump location was unnecessary because the project does not propose any improvements that would encroach or effect the District's easement or infrastructure.
3. Properties within the Rincon Point Community drain to the streets (Puesta Del Sol, Rincon Road and Buena Fortuna) or drain to the ocean. Ventura County Watershed Protection District Surface Water Quality staff determined that no increase in runoff was expected since the project does not add hardscape or increase the building footprint, and no grading is proposed.
4. As noted in the Planning Director hearing staff report Section C, Consistency with the General Plan (Exhibit 4), proposed development would occur above grade and no impacts to archeological resources will occur.

Ground of Appeal No. 3

Appellant's Statement:

Watered-down conditions: Two conditions (20 and 21) have been tendered to address our concerns about protecting underground resources:

1. *Condition Number 20 purports to offer protection to the adjacent protected Monterey Cypress tree but deviates from the tree protection ordinance in that it omits the word "maximum" in the phrase "to the maximum extent feasible" and fails to protect the tree's root zone. Nor is there a risk analysis of the installation of helical piers in the protected root zone.*
2. *Condition Number 21 fails to anticipate the destructive effect on buried artifacts of the foreseeable possibility of the use of helical piers to strengthen the foundation. Since these piers are screwed blindly into the ground, no onsite observer, whether arborist or archaeologist, can properly see if underground resources are at risk.*

While both the Planner and the applicant have maintained that the project will not require ground disturbance citing the recent 2015 pile repair by Van Sande Structural Consultants, the County Response to Comment 3 at page 5 of the Planning Director's Decision Letter clearly contemplates modifications to the foundation.

The Earth Systems Report for the current project also casts doubt about the capacity of the existing foundation: "It is currently unknown whether the existing grade beam and caisson foundation system can handle the new loads posed by the proposed second story addition." We tracked down the permit for the 2015 foundation repairs which indicates that the repairs restored piles to their original condition and that no other improvements or changes shall be performed.

Staff Response to Ground of Appeal No. 3:

1. Condition No. 20, as amended, includes the phrase "to the maximum extent feasible" (Exhibit 7). On July 24, 2018, the Applicant submitted to the Planning Division, an Arborist Report prepared by Bill Spiewak (Exhibit 8). The report notes the lowest limb of the Monterey cypress tree is approximately 12 feet above the Elliott's roof and the base of the tree is eight to ten feet from the common property line. No roots were seen around the caissons and according to Mr. Spiewak, it is extremely unlikely that any significant root growth is below the Elliott's home. As discussed above, the Project Description (Condition No. 1, Exhibit 7) has been amended to specifically state that there would be no foundation modifications. In the event that the project deviates from the project description, the Applicant is subject to Condition No. 4 (Exhibit 7), which requires the Applicant to contact the Planning Director to determine if the proposed activity requires a modification of the Coastal PD Permit.
2. On April 10, 2018, Planning Division staff consulted with the Carpinteria Sanitary District which retained a qualified archaeologist to perform Phase I and Phase II Archaeological Reports for the Carpinteria Septic to Sewer Project. In the Rincon Beach Community, the reports concluded that artifacts were primarily in the eastern portion of Puesta Del Sol. The single-family dwelling is located on the western side of Puesta Del Sol and is supported by concrete piers that have been constructed to a depth of eight feet or greater. No ground disturbance is proposed, and all construction activities will be confined to the existing building footprint. Although, the proposed project will not result in impacts to archaeological resources, the proposed project will be subject to the standard condition of approval (Condition No. 21, Exhibit 7) to ensure the protection of any subsurface resources that are inadvertently encountered during the construction activities.

D. CONSISTENCY WITH THE GENERAL PLAN

The Ventura County General Plan *Goals, Policies and Programs* (2015, page 4) states:

...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works project, any public (County, Special District, or Local Government) land acquisition or disposition, and any

specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.

Furthermore, the Ventura County CZO (Section 8181-3.5.a) states that in order to be approved, a project must be found consistent with all applicable policies of the Ventura County Coastal Area Plan.

Planning Division staff's analysis of the proposed project's consistency with the applicable policies of the Ventura County General Plan and Coastal Area Plan is set forth in: Section C of the staff report for the February 15, 2018, Planning Director Hearing (Exhibit 4); the Approval Letter (Exhibit 3); and Section C – Grounds of Appeal (above). With the adoption of Planning Division staff's recommended conditions of approval (Exhibit 7), the proposed project will comply with the policies of the Ventura County General Plan and Coastal Area Plan.

E. ZONING ORDINANCE COMPLIANCE

The proposed project is subject to the requirements of the Ventura County CZO (Section 8175-2). See Section D of the staff report for the February 15, 2018, Planning Director hearing (Exhibit 4) for Planning Division staff's analysis of the proposed project's consistency with the applicable permitting requirements and development standards of the Ventura County CZO. As stated in the staff report, the proposed project will comply with the applicable permitting requirements and development standards of the Ventura County CZO

F. PD PERMIT FINDINGS AND SUPPORTING EVIDENCE

The Planning Commission must make certain findings in order to determine that the proposed project is consistent with the permit approval standards of the Ventura County CZO (Section 8181-3.5 et seq.). The proposed findings and supporting evidence are as follows:

1. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program [Section 8181-3.5.a].

Based on the information and analysis presented in Sections D and E of this staff report and, by reference, Sections C and D of the staff report for the February 15, 2018, Planning Director hearing (Exhibit 4), the finding that the proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program can be made.

2. The proposed development is compatible with the character of surrounding development [Section 8181-3.5.b].

As discussed in Sections D and E of this staff report (above) and, by reference, Section C and D of the staff report for the February 15, 2018, Planning Director

hearing (Exhibit 4), the proposed project does not include a change of use that has the potential to create land use conflicts with surrounding residential and beach development, generate new traffic, or introduce physical development that is incompatible with the surrounding, legally established development. Furthermore, with the adoption of the recommended condition of approval to limit the days and times of noise-generating activities (Exhibit 7, Condition No. 16), the proposed project will not generate noise that is incompatible with surrounding residential and beach uses. Therefore, the proposed project will be consistent and compatible with the character of the surrounding, legally established development.

Based on the discussion above, this finding can be made.

- 3. The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [Section 8181-3.5.c].**

The proposed project consists of a request to allow a 525 sq. ft. second-story addition, new interior stairway, new 65 sq. ft. lattice overhang, and a first-floor renovation of the existing 1,930 sq. ft. beachfront single-family dwelling. This use is not a conditionally permitted use and, therefore, the requirement of this finding does not apply.

- 4. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [Section 8181-3.5.d].**

The proposed project will not expand the current permissible use of the subject property. As discussed in Section C of the staff report for the February 15, 2018, Planning Director hearing (Exhibit 4), the proposed project does not include any new physical development that may interfere with surrounding residential and beach uses on other properties located within the vicinity of the subject property. The proposed project will not result in a change in traffic generation, water or sewage disposal service connections, and existing public services are adequate to serve the proposed development along with existing residential development on neighboring property. Finally, as discussed in Section D of the staff report for the February 15, 2018, Planning Director hearing (Exhibit 4), the proposed project will comply with the maximum building height, minimum building setback, and maximum building coverage standards of the CR1-7,000 sq. ft. zone. Therefore, the proposed project will not be obnoxious or harmful, or impair the utility of neighboring properties or uses.

Based on the discussion above, this finding can be made.

5. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [Section 8181-3.5.e].

As discussed in Section C of the staff report for the February 15, 2018, Planning Director hearing (Exhibit 4), adequate public resources and infrastructure exist to serve the proposed single-family dwelling. The Casitas Municipal Water District will continue to provide water and the Carpinteria Sanitary District will continue to provide sewage disposal service to the subject property. Furthermore, the proposed project will not generate new traffic, and Bates Road and the surrounding public road network are adequate to continue serving the existing single-family dwelling. Finally, the proposed project will be subject to conditions of approval to limit the days and times of noise-generating construction activities, and to ensure that adequate fire flow, access, and response times exist for fire protection purposes. Therefore, the proposed project will not be detrimental to the public interest health, safety, convenience, or welfare.

Based on the discussion above, this finding can be made.

G. PLANNING COMMISSION HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS

The Planning Division provided public notice regarding the Planning Commission hearing in accordance with the Government Code (Section 65091) and Ventura County CZO (Section 8181-6.2 et seq.). On November 29, 2018, 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 on December 3, 2018, a legal ad was placed in the *Ventura County Star*¹. As of the date of this document, six comment letters/emails were received from the public in response to the proposed project. No new issues were raised that were not addressed in the staff report for the project. The comment letters/emails are included as Exhibit 11.

H. APPEAL FEES

Pursuant to the current Board of Supervisors-adopted Planning Division Fee Schedule, if a project is appealable to the Coastal Commission, and unless the Coastal Commission approves an ordinance amendment authorizing a fee, no fee is required to appeal a Project. Therefore, no fee was charged by the County to process the appeal of the Planning Director's decision to approve the subject project. To date, the County's cost to process the appeal of the Planning Director's decision is approximately \$5,825.02. The cost to process the appeal can be completed within the existing Planning Division budget allocations.

¹ The November 8, 2018 Planning Commission hearing was cancelled and re-noticed to December 13, 2018.

I. APPELLANT'S RECOMMENDED ACTIONS

The Appellant requests that the Planning Commission take the following action:

1. *Deny the Coastal PD Permit.*
2. *Reject Planning Director Findings in support of the Coastal PD Permit.*
3. *Address concerns regarding whether a series of Projects at 8120 Puesta del Sol have been characterized and pursued in a manner that amounts to piecemealing that frustrates planning and public oversight and evades compliance with local policies.*
4. *Condition any approval of this project on bringing Condition 20 into conformity with the tree protection ordinance stating that the Monterey Cypress at 8128 Puesta del Sol shall be protected to the maximum extent feasible. Specify that the tree protected zone of the tree adjacent to the project site is 64.5 feet per report "Monterey Cypress on White Property." Expressly forbid any intrusion into the protected root zone by drilling (such as installation of helical piers).*
5. *Condition any approval of this Project on a factually supported finding that the existing foundation will adequately support this addition, a wave run-up study (that did not appear to have been conducted in the 2015 permit process of repairing the foundation that expressly stated that repairs were restoring its function to support original design loads and no other improvements were performed) and an assessment of the adequacy of the foundation in light of the recent debris flow at the site on January 9, 2018.*
6. *Require that a neutral arborist of our choice be present if soil is to be disturbed and that this arborist shall have the authority to stop the project if deemed necessary.*

J. STAFF RECOMMENDED ACTIONS

Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that the Planning Commission has reviewed and considered this staff report and all exhibits thereto, and has considered all comments received during the public comment process;
2. **FIND** that this project is categorically exempt from CEQA pursuant to Section 15301(e) (1) of the CEQA Guidelines.
3. **MAKE** the required findings to grant the requested Coastal PD Permit (Case No. PL17-0084) pursuant to Section 8181-3.5 of the Ventura County CZO, based on

the substantial evidence presented in Section F of this staff report and the entire record;


4. **GRANT** Coastal PD (Case No. PL17-0084), subject to conditions of approval (Exhibit 7).
5. **DENY** the Appellant's appeal; and
6. **SPECIFY** that the Clerk of the Planning Commission is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which the above decisions are based.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the permit has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date.

County Counsel has reviewed this Staff Report.


If you have any questions concerning the information presented above, please contact Pearl Suphakarn at (805) 654-2453 or Pearl.Suphakarn@ventura.org.

Prepared by:



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Reviewed by:



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EXHIBITS

- Exhibit 2 – Aerial Location, General Plan and Zoning Designations, and Land Use Maps
- Exhibit 3 – PL17-0084 Planning Director Approval Letter, dated March 26, 2018
- Exhibit 4 – PL17-0084 Staff Report for Planning Director Hearing on February 15, 2018
- Exhibit 5 – PL17-0084 Conditions of Approval, dated March 26, 2018
- Exhibit 6 – Appellant's Appeal Application, dated April 6, 2018
- Exhibit 7 – PL17-0084 Amended Conditions of Approval
- Exhibit 8 – Arborist Report, Bill Spiewak, dated July 23, 2018
- Exhibit 9 – Letter from Van Sande Structural Consultants, Inc., dated April 10, 2018
- Exhibit 10 – Letter from Van Sande Structural Consultants, Inc., dated April 27, 2018
- Exhibit 11 – Public Comments
- Exhibit 12 – Project Plans