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DELIVERED BY HAND

Ventura County Supervisors
800 S. Victoria Avenue
Ventura, CA 93009-1920

RE: Appeal on Behalf of Douglas and Jaleh White -- Elliot Site Plan Adjustment, Case #PL21-000035, Development Permit Case #PL17-0084, for 8120 Puesta del Sol, Carpinteria, CA

Dear Honorable Supervisors:

*1 [Brownstein Hyatt Farber Schreck represents appellants Douglas and Jaleh White, owners of the property located at 8128 Puesta del Sol, which lies immediately west of the Elliot property. 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.

Background

The Elliot and White properties are located in ESHA and ESHA buffer, lying adjacent to the Pacific Ocean to the south and Rincon Creek to the west. The White property is home to three (3) stunningly beautiful heritage Monterey Cypress trees that grow immediately north of the sandy beach.

The Whites live in their house. The Elliots do not live in theirs. The Elliots' property is a vacation home and that may explain why the Elliots have little regard for the ESHA or for the hardship that their proposal will have on their neighbors, the Whites.

The groundwater levels on the White and Elliot properties are high, rising approximately 3 feet below ground level. As a consequence of the shallow groundwater, the Monterey Cypress trees send out shallow roots that spread under the houses on the White and Elliot properties. Because of the age of these trees, many of the roots are quite large. Because of the age and beauty of these trees, together with the tree protection measures incorporated into Ventura County's ordinances and policies, the Planning Commission in 2018 imposed conditions on Phase One of the Elliot project that ***prohibited all ground disturbances***. With that condition in place, the Whites were relieved to know that the tree roots would be safe from damage.

What the Whites didn't realize is that the Elliots didn't intend to stop at Phase 1. The Whites had no inkling that Phase 2 of the Elliot project was pending.

The trees currently are thriving. Phase 2 will include extensive ground disturbances, all for cosmetic purposes. None of the proposed changes are necessary. The Whites strenuously oppose Phase 2 (which doubtless would have been denied by the 2018 Planning Commission) and ask that your Board grant this appeal.

Elliots' Phase 2 Project

The Elliots now propose three (3) courses of action that will have an adverse impact upon the Monterey Cypress trees and the Whites' enjoyment of their own property. The three proposals are: (a) new driveway; and, (b) new fence along the property line shared with the Whites; and, (c) new curb and pile of stones encroaching into Whites' access to their home.

The Proposed Driveway/Parking Area Impacts

#2 [As proposed, the new driveway will extend across the entire existing driveway/parking area on the Elliot property and will extend from Puesta del Sol to and under much of the Elliots' residence. The driveway will require significant earth disturbance, which is precisely what the Planning Commission voted to prevent in 2018.

#3 [The driveway installation includes digging below existing ground level far enough to accommodate a concrete slab 5 inches thick, over a 4-inch thick layer of aggregate, over a couple of inches or more of rebar, plus compaction of the native soils below. 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.

#4 [Because the water table is so high, the Monterey Cypress roots that extend under the Elliot house and driveway already are confined to the relatively narrow layer of soil sandwiched between groundwater and the surface. High groundwater levels already have driven some tree roots to run along the top of and just below ground level. For that reason, the tree roots are vulnerable to damage that could lead to the death of any of these trees. The Elliots hired an arborist, who dug two narrow trenches about 8-11" 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.

The new driveway will have a profound impact on the Monterey Cypress trees that the Whites cherish. The existing driveway is asphalt. A resurfacing of the asphalt would improve the

appearance of the Elliots' entrance. New and extensive excavation to accommodate the concrete is neither necessary nor appropriate in an environmentally sensitive area such as this and it could damage or destroy large trees that are an important part of the ESHA.

The Proposed New Fence

#5 [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.

The Elliots propose to remove existing fence posts as part of their fence installation. Virtually all of the fence posts are buried in large chunks of concrete so removing them will involve soil (and tree root) disturbance along the entire length of the fence. All for solely cosmetic purposes.

#6 [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.

In short, the Elliots' proposal will have a significant adverse effect on the Whites. It also is unnecessary. The Whites have no objection to the Elliots mounting a lightweight wooden facade on their side of the fence if the Elliots want to beautify their side yard. To pull out concrete-embedded fence posts in an area of vulnerable tree roots is unwise and unnecessary. It also has significant impacts upon the ESHA and upon the Whites.

The Curb & Stones

[The Whites are not members of the homeowners association (their home predates association formation), but they hold an easement over the entire width of Puesta del Sol. 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

#7 [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.

We ask that the County not permit the Elliot project to extend beyond their property line at the Whites' expense. Because of the configuration of the Whites' private driveway, which branches off of Puesta del Sol, large vehicles like delivery trucks and fire trucks must be able to use the full width of Puesta del Sol in order to enter the Whites' narrow private drive. Because the Whites' property provides direct access to the beach, emergency vehicles frequently use the Whites' driveway to access the beach to perform rescues.

#8 [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.

Conclusion

In addition to being unnecessary, the proposed project should not spill over the Elliot property line and onto the Whites' property and access easement. It also should not have significant impacts upon the Elliots' neighbors. Purchasing coastal property in an ESHA and/or an ESHA buffer entails accepting restrictions on earth disturbance and other environmental impacts. The Planning Commission made that very clear to the Elliots in 2018. Four years later, the Elliots are seeking approval of modifications that will have significant environmental impacts as well as adverse impacts on the Whites and other neighbors. We ask that your Board approve our appeal and deny the project as proposed. The Whites will never agree to encroachment on their easement over Puesta del Sol. They have no opposition to the Elliots putting a new façade over their side of the fence and resurfacing the existing asphalt driveway with a fresh coat of asphalt.

Sincerely,



Susan F. Petrovich

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See Attached Appeal Form and Elliot Plan

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