

**VENTURA COUNTY  
PLANNING COMMISSION  
HEARING**

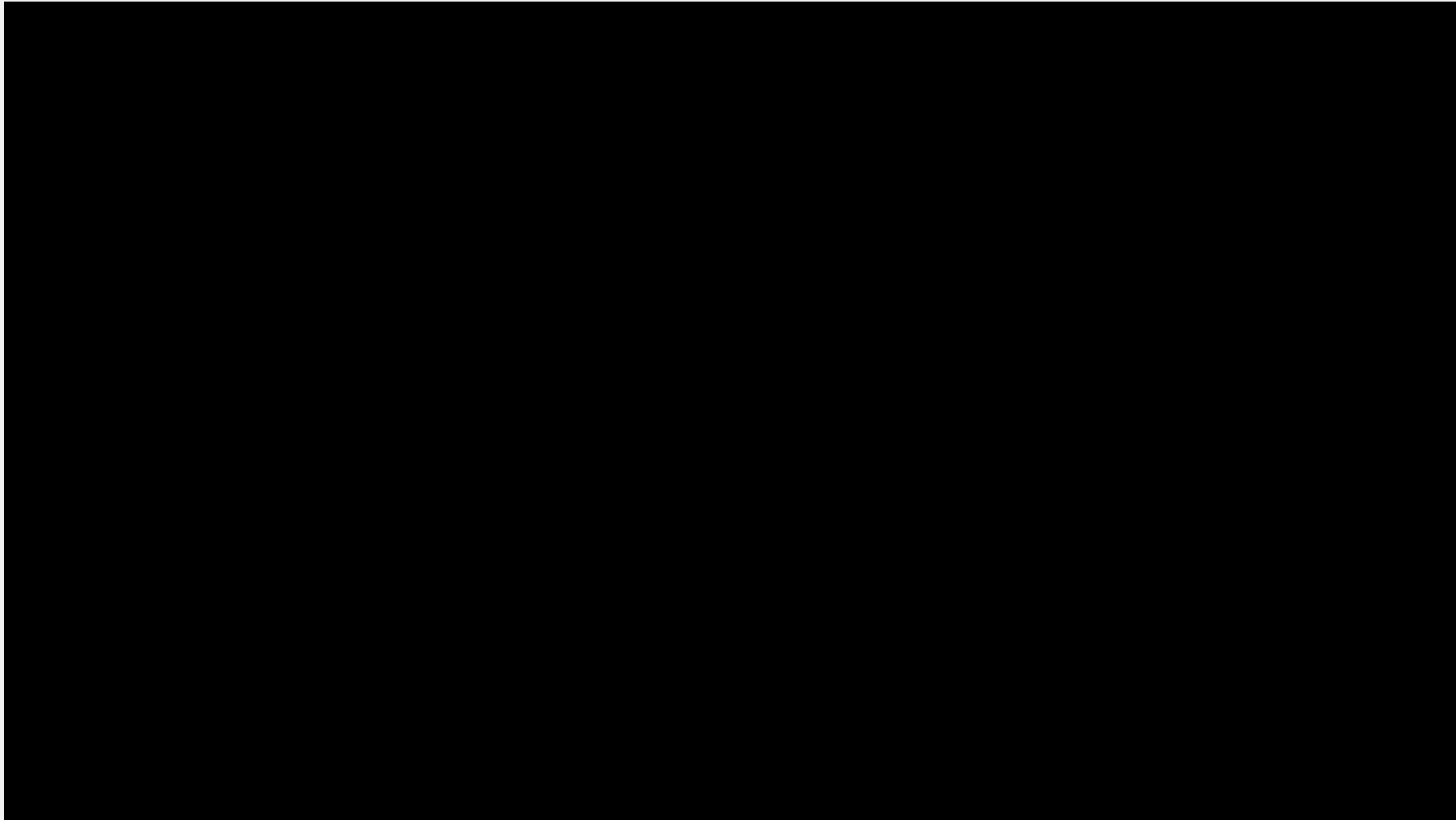
May 5, 2022

SUBMISSION BY  
SARA CIPANI

**UNDERLYING CDP  
PREMISED ON  
NO GROUND DISTURBANCE**

- When the Whites appealed the original CDP in 2018, they were concerned primarily with:
  - protecting the three Monterey cypress trees on their lot from **GROUND DISTURBANCE** that might occur
  - ensuring **THEIR RIGHT TO APPEAL** and be heard should any future groundwork be proposed

**EXCERPTS FROM DEC 13, 2018 PLANNING COMMISSION  
HEARING REGARDING CDP APPROVAL**



# THE CURRENT PROPOSAL INVOLVES SIGNIFICANT GROUND DISTURBANCE

## PARKING AREA

- Demolition of existing asphalt parking area and driveway
- New concrete and pebble landscaping and hardscape

## FENCE REMOVAL AND REPLACEMENT (ON SW PROPERTY LINE)

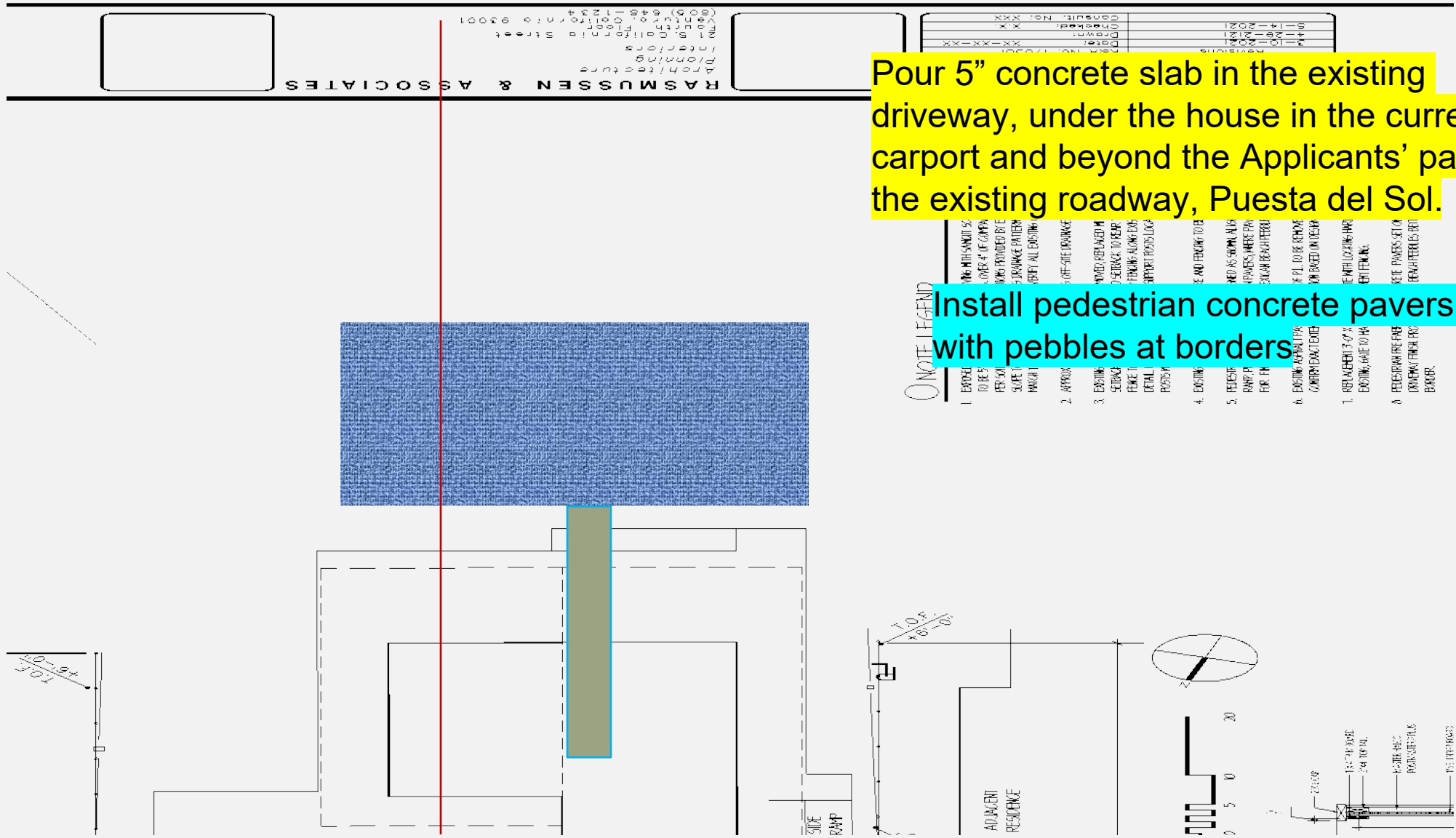
- Removing an existing fence with approximately 16 concrete footings which are primarily on the Appellants' property
- Installing a new fence with concrete anchors and footings approximately 2ft below the ground surface in the root zones of at least 2 protected, heritage trees.

**NOTE LEGEND**

- EXISTING AGGREGATE CONCRETE PAVING WITH SMOOTH SURFING AS SHOWN CONCRETE TO BE 5" THICK WITH 8 BARS IN 10' ON CENTER. IF CALCULATED AGGREGATE BASE, MS PER 5000 SQUARE FEET RECOMMENDATIONS PROVIDED BY GEOTECHNICAL ENGINEER, SHALL BE USED TO DETERMINE MINIMUM EXISTING DRAINAGE PATTERNS TO BE MAINTAINED AFTER A PAVING TO EXISTING DRIVEWAY. FIELD VERTICALLY EXISTING GRADES FROM TO CONFORM WITH EXISTING GRADES.
- APPROXIMATE LOCATION OF EXISTING OFF-SITE DRAINAGE INLET.
- EXISTING 6'-0" HIGH FENCE TO BE REMOVED, OVERLAP WITH 3'-0" FENCE AT FRONT YARD SETBACK. 6'-0" FENCE TO BE SET BACK TO REAR YARD AS SHOWN. REAR YARD FENCE TO BE 6'-0" HIGH FENCE ALONG EXISTING SETBACK LOCATION. CENTRAL INLET EXISTING VERTICAL CURB ROSTS LOCATIONS FOR REPLACEMENT FENCES WHERE POSSIBLE.
- EXISTING 6'-0" HIGH TRASH ENCLOSURE AND FENCING TO BE REMOVED.
- EXISTING CONCRETE PAVING ADJACENT TO EXISTING ALUMINUM FENCE WITH WIDTH OF EXISTING DRIVEWAY 8'-0" WIDE. EXISTING PAVING WHERE PAVING MEET EXISTING SETBACK FOR FENCE OF PAVING, PROVIDE MEDIAN REINFORCEMENT AT JOINTS OF THE PAVING.
- EXISTING ASPHALT PAVING OUTSIDE OF PL TO BE REMOVED TO EXISTING ALUMINUM FENCE. EXISTING LOCATION OF DEMOLITION ON EXISTING DRIVEWAY TO BE FIELD.
- REPLACEMENT 3'-0" x 6'-0" HIGH FENCE WITH EXISTING DRIVEWAY. EXISTING DRIVEWAY TO BE REPLACEMENT FENCE.
- EXISTING DRIVEWAY ADJACENT TO EXISTING PAVING SET ON EXISTING DRIVEWAY. FENCE TO BE REPLACEMENT FENCE. EXISTING DRIVEWAY SET ON EXISTING DRIVEWAY. EXISTING DRIVEWAY TO BE REPLACEMENT FENCE.



# CONCRETE SLAB & PAVER INSTALLATION

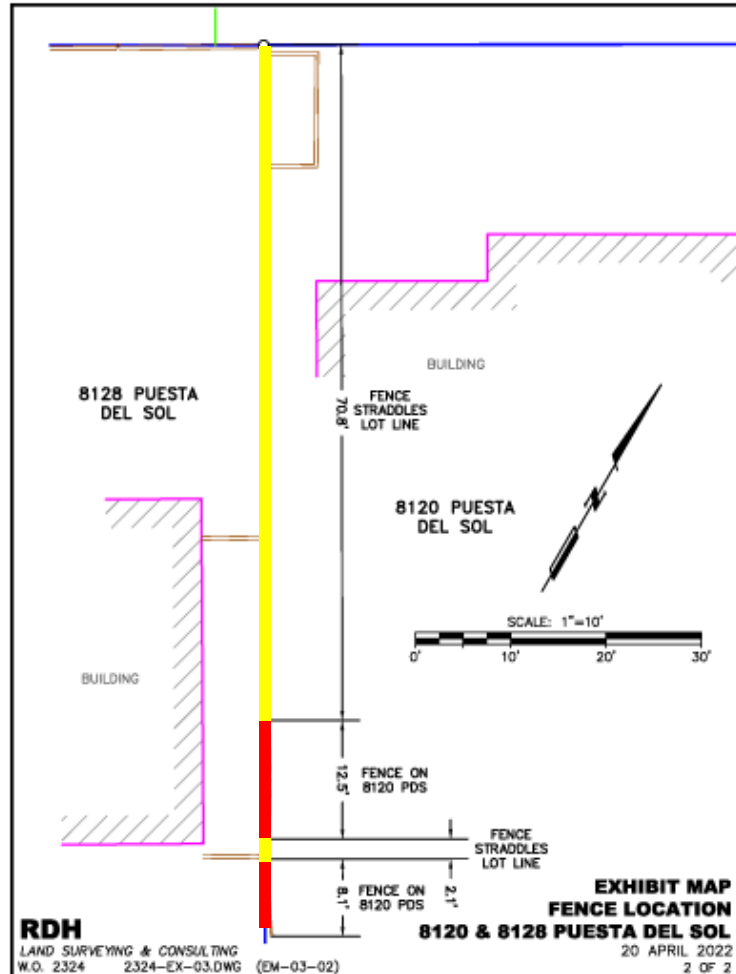




THE FENCE THE ELLIOTS WISH TO  
REMOVE IS NOT ON THEIR  
PROPERTY

- The fence the Elliotts propose to remove mostly straddles the property line between their parcel and the Appellants' parcel;
- The main portion of the footings and posts for the fence are almost exclusively on the Appellants' parcel.
- The fence was built by Donald White (Appellant's father— now deceased) and has always been maintained by Appellant.

# APPELLANT SURVEY



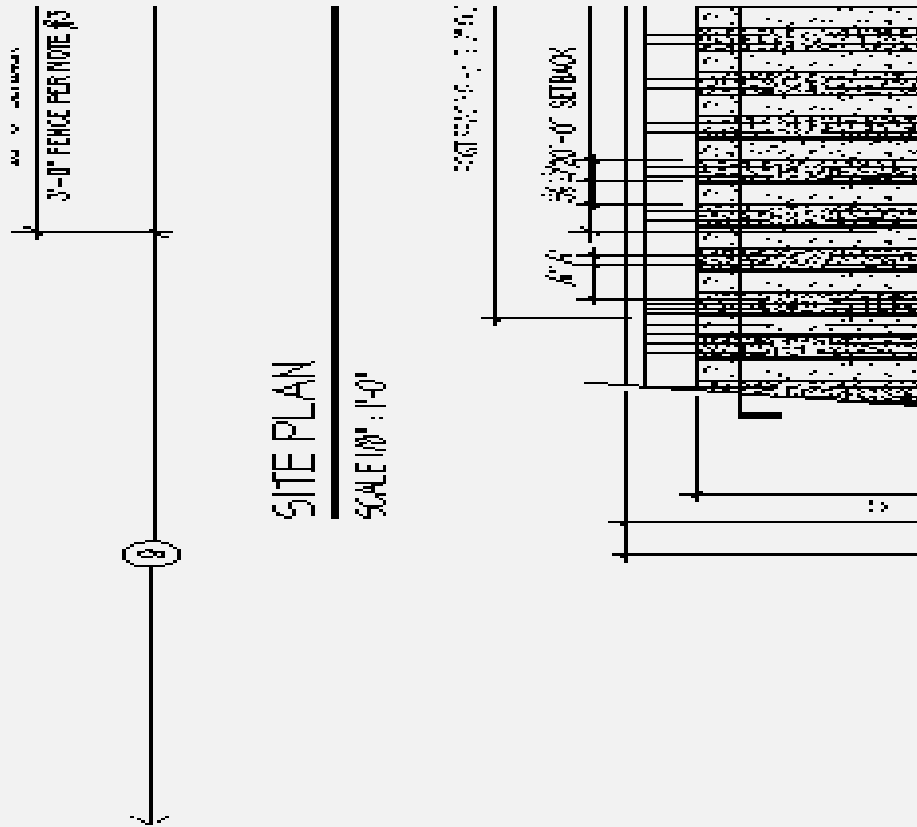
Over **70** feet of the approximately 90 foot fence straddles the lot line.

Only a little over **20** feet of fence is on the Elliott's parcel, in large part because one portion has slumped over the line with age.

The proposed "site plan adjustment" fails to show:

- Fence is not on Elliotts' property
- The immediate proximity of ESHA (2 heritage trees on Appellants' lot)
- The location of Protected Tree Root Zones (all of which extend underneath all or nearly all of the proposed work area).

# HARM AND IMPAIRMENT TO APPELLANTS' PROPERTY RIGHTS AND USE



The Elliotts' proposed replacement fence anchors will include two-foot concrete footings to be placed directly in the root zones of Appellants' protected trees **on the Appellants' property against their wishes.**

County requires that the replacement fence height be reduced to **3** feet, rather than the existing 6 feet in the 20 foot setback from Puesta del Sol.

- This causes a direct harm and loss of privacy and security to Appellants whose private courtyard will now be visually and physically accessible from the street.

## CLASSIFICATION AS SITE PLAN ADJUSTMENT IS IMPROPER

- According to the Coastal Commission\*, a Site Plan Adjustment is a **minor** change to a CDP 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.
- Consequently, a Site Plan Adjustment is **not appealable** to the Coastal Commission.

*\*see Exhibit 13 10-22-15 CCC letter re: Appealability of SPA*

## THE PROPOSAL IS NOT A SITE PLAN ADJUSTMENT BY DEFINITION

- An essential premise of the underlying CDP was the fact that NO GROUND DISTURBANCE of any kind was contemplated (or permissible).
- This was discussed AT LENGTH in the December 13, 2018 Hearing and was the primary justification for failing to do an impacts analysis on risks to the roots of the protected trees in question.
- Commissioner White specifically asked that explicit language prohibiting ground disturbance be added to Condition 1- Project Description when the approval for the underlying CDP was granted.
- At that hearing, Multiple Commissioners and County Staff spoke to the availability of an appeals process and environmental review should ANY groundwork be proposed or become necessary.
- As a matter of law, new proposed work that extends beyond the CDP's subject property onto adjacent parcels and roadways cannot not be characterized as a de minimis "site plan adjustment."

- Exhibit 10 – Final Conditions of Approval for Site Plan Adjustment are internally contradictory and non-sensical as drafted

The driveway project extends beyond Applicant's parcel into Puesta del Sol & the fence replacement impacts and encroaches on Appellants' parcel.

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 project 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.

The following Project Description is a Site Plan Adjustment Case No. PL21-0035 to Coastal PD Permit Case No. PL17-0084:

Exterior modifications to repair the existing driveway and the removal and replacement of an existing fence. The repair to the driveway consists of removal of the existing pavement and the addition of a concrete driveway, pedestrian paving squares and pebbles. Fence modifications include the removal and replacement of fencing located along the northeast and southwest property lines, including a trash enclosure located in the front setback adjacent to the southwest property line. All fencing in the 20 foot (ft.) front setback will be three feet in height (from grade) with the remaining portion measuring six feet in height (from grade). Tree protection measures (Conditions 20 and 21) and the Arborist Report

Removal and replacement of the driveway and fence both require ground disturbance and removal of vegetation.

**A**

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 project 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.

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**B**

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.

The following Project Description is a Site Plan Adjustment Case No. PL21-0035 to Coastal PD Permit Case No. PL17-0084:

**C**

Exterior modifications to repair the existing driveway and the removal and replacement of an existing fence. The repair to the driveway consists of removal of the existing pavement and the addition of a concrete driveway, pedestrian paving squares and pebbles. Fence modifications include the removal and replacement of fencing located along the northeast and southwest property lines, including a trash enclosure located in the front setback adjacent to the southwest property line. All fencing in the 20 foot (ft.) front setback will be three feet in height (from grade) with the remaining portion measuring six feet in height (from grade). Tree protection measures (Conditions 20 and 21) and the Arborist Report

Conditions for PD Permit No. PL17-0084  
Date of Public Hearing: December 13, 2018  
Date of Approval: December 24, 2018

Permittee: GMB Elliott Family, LLC.,  
Location: 8120 Puesta Del Sol, Ventura, CA  
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dated August 6, 2021, are to be adhered to during construction to protect the roots of a cypress tree located on the neighboring property to the southwest (APN 008-0-170-340).

**D**

The development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the Project description above and all approved County land use hearing exhibits in support of the Project and conditions of approval below.

## INCONSISTENT DIRECTIVE

- Paragraphs A and B specifically disallow the work set forth in the new proposed Paragraph C.
- Paragraph D's requirement that the work comply with the Project Description is impossible since one cannot comply with A and B while undertaking the work in C.
- These contradictions belie the fact that the significant ground work beyond the parcel boundaries is NOT a mere Site Plan Adjustment, but a major deviation from the CDP.

## THIS PROJECT CREATES SIGNIFICANT UNJUSTIFIED GROUND DISTURBANCE

- Removal of concrete footings in the root zones of 2 trees will require significant ground disturbance in protected ESHA threatening the well-being of the Appellants' trees.
- Since the underlying CDP was premised on there being NO GROUND DISTURBANCE, no environmental review was conducted and no alternatives analysis has occurred.
- There is no need or justification for the removal of the fence other than the Elliotts' desire to have matching fence on both the NE and SW portions.
- There is no entitlement for Elliotts to endanger protected ESHA and encroach on Appellants' property because of their aesthetic whims.



## COSTS OF APPEAL

- In spite of repeated assurances that an appeals process would be readily available should future groundwork be proposed, the Appellants were forced (under protest) to pay a \$1000 Appeals Fee to the County.
- County Staff maintains that this decision is not appealable to the Coastal Commission, **in spite of the risk of significant, direct impacts on ESHA by the proposed work.**
- When the issue of ownership of the fence was raised, the County did not require the Applicants to demonstrate their ownership of the fence, leaving it instead to the Appellants to spend thousands more on a survey to show that the fence is not on the Elliotts' parcel.
- It is against public policy to impose such financial burdens on members of the public (senior citizens, no less) who are trying to protect sensitive coastal biological resources.

## JUST SAY NO

- County's characterization of this proposal as a mere Site Plan Adjustment is unsupported by the record.
- At the very least, a permit must accurately identify the actual parcels upon which the proposed work will occur– a blatant omission in this case. The new proposals take the work outside the scope and bounds, literally, of the underlying CDP and are not a mere 'adjustment.'
- While it may be understandable that the new homeowners from Texas want to have matching fences and fresh driveway landscaping, this enthusiasm does not justify fast-tracking a major deviation from the underlying permit which was premised on no groundwork occurring without further analysis.
- Regrettably, the Staff Report not only fails to adequately present the threat to environmental resources, but threatens to spark a dispute over property rights between neighbors– since the County seems posed to allow the Applicant to tear down a functional fence on the Appellants' property over their vocal objection rather than explore alternatives that minimize harm to ESHA and encourage collaboration between property owners.

THANK YOU FOR YOUR TIME AND  
CONSIDERATION