

**MONTECITO PLANNING COMMISSION**  
**Staff Report for Gluck Appeal of Berkoff New SFD, Guest House, Cabana, Tennis Court and Pool**

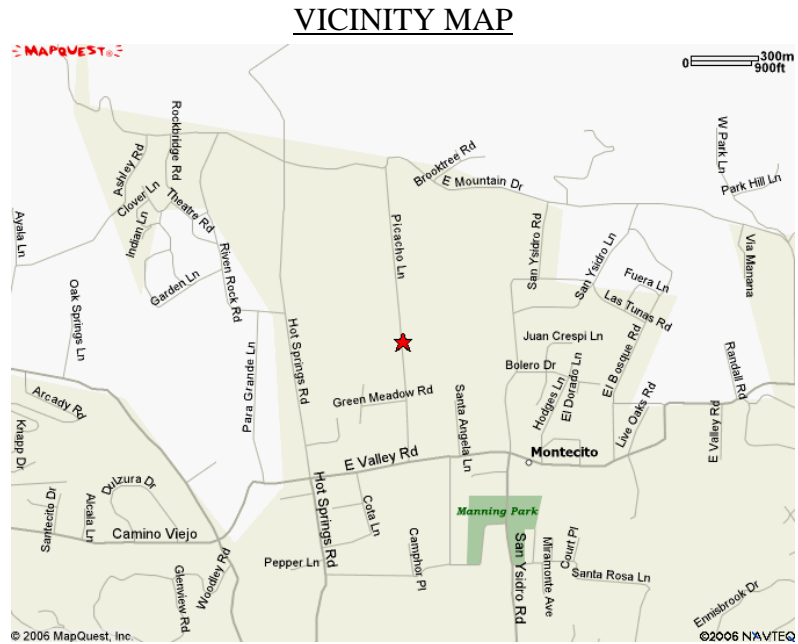
**Hearing Date:** June 21, 2006  
**Staff Report Date:** June 9, 2006  
**Case Nos.:** 06APL-00000-00010 & 06APL-00000-00013  
 (Appeals of 05BAR-00000-00172 & 05LUP-00000-00952)  
**Environmental Document:** N/A

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700 Picacho Lane, Assessor's Parcel Number 011-140-024, located approximately one half mile north of the intersection of Picacho Lane and East Valley Road, Montecito Area, First Supervisorial District.

**1.0 REQUEST**

Hearing on the request of Derek Westen, representing Fred Gluck, to consider appeals of P&D's approval of Case No. 05LUP-00000-00952 and the Montecito Board of Architectural Review preliminary approval of 05BAR-00000-00172 for the construction of a new, approximately 9,860 square foot single-family residence with a 2,000 square foot basement, an 800 square foot guest house, an 800 square foot second story cabana with 800 square foot garage/accessory structure below, a pool, spa, and tennis court located at 700 Picacho Lane (APN 011-140-024) in the First Supervisorial District.

Application Filed: August 10, 2005  
 Land Use Permit Approved: March 28, 2006  
 Appeals Filed: March 29, 2006 & April 7, 2006

**2.0 RECOMMENDATION AND PROCEDURES**

Follow the procedures outlined below and deny the appeals of the project, Case Nos. 06APL-00000-00010 and 06APL-00000-00013, based on the project's consistency with the Santa Barbara County Comprehensive Plan, including the Montecito Community Plan, and the Article IV Zoning Ordinance.

Your Commission's motion should include the following:

1. Adopt the required findings for approval of Case No. 05LUP-00000-00952, included as Attachment A of this staff report, and;
2. Deny the appeals, Case Nos. 06APL-00000-00010 and 06APL-00000-00013, thereby upholding Planning and Development's approval and granting *de novo* approval of Land Use Permit Case No. 05LUP-00000-00952 and preliminary BAR approval of Case No. 05BAR-00000-00172, included as Attachment B of this staff report.

Refer back to staff if the Montecito Planning Commission takes other than the recommended action for appropriate findings.

### **3.0 JURISDICTION**

This appeal is being considered by the Montecito Planning Commission based on Section 35-489.2 of Article IV, which states that "[t]he decisions of the Planning and Development Department on the approval, denial, or revocation, of Land Use Permits, final approval of projects under the jurisdiction of the Director, or decisions of the Board of Architectural Review may be appealed to the Planning Commission by the applicant or any interested person adversely affected by such decision except as provided in Sec. 35-489.2.2 below." Hence, the Montecito Planning Commission has jurisdiction over these appeals.

### **4.0 APPEAL ISSUE SUMMARY**

The applicants are appealing the Montecito Board of Architectural Review's March 20, 2006 preliminary approval of Case No. 05BAR-00000-00172 and the Planning and Development Department's March 28, 2006 decision to approve the requested Land Use Permit, Case No. 05LUP-00000-00952. The project was approved due to its consistency with the Comprehensive Plan, including the Montecito Community Plan, and all provisions of the Montecito Zoning Ordinance (Article IV). The appeals contend that:

1. The size, bulk, and scale of the residence and related development are incompatible with the neighborhood; and
2. The proposed residence and accessory structures are substantially and unjustifiably in excess of the applicable Montecito Community Guidelines with regard to size and floor area ratio; and
3. The proposed structures are inappropriately sited in a way that unjustifiably interferes with uses and improvements on adjacent properties; and

4. In taking its action, the Montecito Board of Architectural Review (MBAR) was materially misled by incorrect information provided by the applicant regarding the history of the project. The MBAR failed to impose reasonable and necessary conditions restricting abusive proposed landscaping.

**Appeal Requirements:** Under Section 35-489.2.1.d, Article IV of the County Code, appellants of Land Use Permits must specifically state in the appeal how: (1) the decision of the Planning and Development Department on a Land Use Permit, or a decision of the Director or the MBAR, is not in accord with the provisions and purposes of Article IV; or (2) there was an error or an abuse of discretion by the Planning and Development Department, Director or MBAR.

**Grounds for Appeal:** In the materials dated March 29, 2006 (Case No. 06APL-00000-00010, see Attachment G), the appellant asserts that the March 20, 2006 preliminary approval granted by the Montecito Board of Architectural Review (MBAR) for Case No. 05BAR-00000-00172 was not in accord with the provisions and purposes of Article IV and the policies stated within the Montecito Architectural Guidelines. Specifically, the appellant expresses concerns regarding the size, bulk, and scale of the residence, the proposed placement of the structures, and the findings of neighborhood compatibility made by the MBAR. The assertions made by the appellant under Case No. 06APL-00000-00013 which appeals P&D's approval of 05LUP-00000-00952 are identical to those stated in the MBAR appeal.

**Staff Response:** The approved ministerial project was found consistent with the policies contained within the Comprehensive Plan, including the Montecito Community Plan and found in compliance with all applicable Zoning Ordinance requirements. In addition, the project was reviewed by the Montecito Board of Architectural Review and was granted preliminary approval on March 20, 2006. Although the residence would be approximately 18% over the recommended floor area, the MBAR approved the project due to its "compatibility with adjacent properties." A study of neighboring recommended floor areas adjacent to the subject parcel was presented to the MBAR for their consideration (see staff FAR study included as attachment F.) Montecito Community Plan-Action LU-M-1.1.1 addresses architectural guidelines and development standards to be used and implemented by the MBAR.

The Planning and Development Department approved the requested land use permit (05LUP-00000-00952) for the project on March 28, 2006 and conducted noticing in accordance with Article IV, Sec. 35-488.3 (Land Use Permits Noticing). The notice was posted at three (3) locations on the subject property and was posted for the required appeal period of 10 calendar days.

Because the project is an allowable residential use that is consistent with all applicable policies of the Comprehensive Plan and Montecito Community Plan, conforms to all requirements of Article IV, the Montecito Zoning Ordinance, and received MBAR preliminary approval, and as such was found to be compatible with neighboring uses and structures, staff recommends denial of the appeals and approval of the project.

## 5.0 PROJECT INFORMATION

### 5.1 Site Information

<b>Site Information</b>	
Comprehensive Plan Designation	Montecito Community Plan; Semi-Rural Residential, SRR-0.33 (one dwelling unit per 3 acres)
Zoning Ordinance, Zone District	Urban, Article IV, Residential, 3-E-1, 3-acre minimum parcel size
Site Size	3.40 acres, gross
Present use and development	The site is currently vacant
Surrounding Uses/Zoning	<i>North:</i> Residential, 3-E-1 <i>South:</i> Residential, 3-E-1 <i>East:</i> Residential, 3-E-1 <i>West:</i> Residential, 2-E-1
Access	Private drive via Picacho Lane
Public Services	Water Supply: Montecito Water District Sewage: Montecito Sanitary District Fire: Montecito Fire Protection District

## 5.2 Project Description

The proposed project is for a Land Use Permit to authorize the construction of a new, approximately 9,860 square foot single-family residence with a 2,000 square foot basement, an 800 square foot guest house, an 800 square foot second story cabana with an 800 square foot garage/accessory structure below, a pool, spa, and tennis court. The height of the new residence would be approximately 37 feet. Two new driveways would be constructed, as well as a motor court, guest parking areas for the guest house and cabana, formal gardens and associated retaining walls. Approximately nine mature oak trees are proposed to be impacted or removed as part of the project. The applicant is proposing to mitigate the loss of the oaks by planting new oaks grown from seeds taken onsite on a 10-to-1 basis and providing a creek restoration plan for a drainage located on the west side of the property. Approximately 900 cubic yards of cut and 900 cubic yards of fill would be necessary to prepare the site for development. Services will be provided by the Montecito Water District, Montecito Sanitary District and the Montecito Fire Department. Access will be taken from a private driveway via Picacho Lane.

## 5.3 Background

On August 10, 2005 the Berkoff Trust filed an application for a Land Use Permit (Case No. 05LUP-00000-00952) to authorize the construction of a new single-family dwelling, accessory structures, a pool and a tennis court.

On March 20, 2006 the project received preliminary approval from the Montecito Board of Architectural Review. Planning and Development approved Land Use Permit Case No. 05LUP-00000-00952 on March 28, 2006.

On March 29, 2006, Derek Westen, Esq., filed an appeal of the March 20, 2006 Montecito Board of Architectural Review preliminary approval (05BAR-00000-00172) on behalf of Fred and Linda Gluck. Mr. Westen then filed an appeal of P&D's approval of Case No. 05LUP-00000-00952 on April 7, 2006.

## 6.0 PROJECT ANALYSIS

### 6.1 Environmental Review

Pursuant to Public Resources Code Section 21080(b)(1), ministerial projects proposed to be carried out or approved by public agencies are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA).

### 6.2 Comprehensive Plan Consistency

The project was determined to be consistent with all applicable policies contained within the Santa Barbara County Comprehensive Plan, including the Montecito Community Plan, as detailed below:

**Montecito Community Plan Land Use Designation:** Semi-Rural Residential, SRR-0.33 (one dwelling unit per 3 acres)

*LAND USE ELEMENT VIS-3: In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

**Consistent:** In approving the project on March 20, 2006, the MBAR determined it to be in conformance with the scale and character of the existing community. The homes in the immediate area range between 4,180 square feet and 10,112 square feet. The proposed residence would be 9,860 square feet and would be located on one of the larger lots in the neighborhood (3.4 acres). Although the residence would be approximately 18% over the recommended floor area, the MBAR approved the project due to its “compatibility with adjacent properties,” many of which are also over the recommended floor area. A study of neighboring recommended floor areas adjacent to the subject parcel was presented to the MBAR for their consideration (see staff and applicant FAR studies included as attachment F).

*GOAL LUR-M-1: Encourage and Protect Diversity Of Housing Types, While Maintaining The Predominately Large Lot, Single Family, Identity Of The Community.*

**Consistent:** The approved project consists of a single-family dwelling located on a lot greater than 3 acres. The approved project is consistent with the existing identity of the community and the Montecito Community Plan goal of maintaining predominately large-lot, single-family residential development.

*GOAL LU-M-1: In Order To Protect The Semi-Rural Quality Of Life, Encourage Excellence In Architectural and Landscape Design. Promote Area-Wide and Neighborhood Compatibility; Protect Residential Privacy, Public Views, and To the Maximum Extent Feasible, Private Views of the Mountains and Ocean.*

**Consistent:** The MBAR, as part of their project review, is required to study the architectural and landscape design, neighborhood compatibility, residential privacy, and potential effects of the project on public and

private viewsheds. In approving the project on March 20, 2006, the MBAR determined it to be consistent with this goal. Although the residence would be approximately 18% over the recommended floor area, the MBAR approved the project due to its “compatibility with adjacent properties,” many of which are also over the recommended floor area. A study of neighboring recommended floor areas adjacent to the subject parcel was presented to the MBAR for their consideration (see staff and applicant FAR studies included as attachment F). In order to address the appellant’s concerns regarding private views, several revisions to the project landscaping were requested by the MBAR and subsequently made by the applicant. Preliminary approval was granted by a 6-to-0 vote on March 20, 2006.

**Action LU-M-1.1.1:** *Architectural Guidelines and Development Standards shall be developed by the County in consultation with the Montecito Association, and the General Plan Advisory Committee and adopted by the County Board of Supervisors by the end of fiscal year 1992-93 in order to preserve, protect and enhance the semi-rural environment of Montecito. These standards and guidelines shall apply to all new residential and commercial development, major exterior remodels and "teardowns" (as defined by the guidelines). These guidelines shall address (but not be limited to):*

- a. *Residential floor area allowed based on lot size;*
- b. *Potential visual impacts resulting from project design and neighborhood compatibility issues;*
- c. *Site planning (e.g. location of easements; impacts to sensitive habitats; amount and extent of grading; size, mass, scale, height of structure);*
- d. *Impacts to public and private views and of the mountains and ocean;*
- e. *Impacts to neighbor's privacy;*
- f. *Architectural design;*
- g. *Appropriate landscaping (including native plants) and potential loss of existing vegetation;*
- h. *Exterior illumination of structures, roads and property;*
- i. *Entrance gates;*

**Consistent:** The Montecito Board of Architectural Review applied the Montecito Architectural Guidelines and Development Standards in its review of the project. Although the residence would be approximately 18% over the recommended floor area, the MBAR approved the project due to its “compatibility with adjacent properties”, many of which are also over the recommended floor area. A study of neighboring recommended floor areas adjacent to the subject parcel was presented to the MBAR for their consideration (see staff and applicant FAR studies included as attachment F.) The MBAR granted preliminary approval of the project on March 20, 2006 (see MBAR minutes, Attachment C), finding the project consistent with these standards.

### **6.3 Ordinance Compliance**

The purpose of the E-1 zone district is “to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health, welfare, and safety. It is the intent of this district to protect the residential characteristics of an area and to promote a suitable environment for family life.” The project is consistent with the residential purpose of the zone district because it is comprised of a single-family dwelling and related accessory structures. The 3-E-1 zone district allows single-family residential use as a principally permitted use. The accessory uses are similarly permissible.

The proposed project is ministerial in nature and requires only the issuance of a Land Use Permit. The Planning and Development Department has permit jurisdiction based on Section 35-482.4 (Land Use Permit Processing) of Article IV of the County Code, which states:

*The Planning and Development Department shall review the Land Use Permit application for conformance with the Comprehensive Plan, this Article, and other applicable regulations, and shall decide to approve or deny the Land Use Permit. A Land Use Permit shall not be approved or issued by the Planning and Development Department until all necessary prior approvals have been obtained.*

**Permit Findings:** All of the required findings were made for the approved Land Use Permit, including those related to height of the approved structures. Article IV (Sec. 35-482.5) requires that the following findings be made before a LUP may be issued:

- (i) *that the proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Montecito Community Plan and 2) with applicable provisions of this Article IV;*

Land Use Permit 05LUP-00000-00952 consists of approval for the construction of a new residence with basement and attached garage. Also approved was a guest house, a detached garage with attached cabana located above the garage, a tennis court, a new pool, two driveways, several retaining walls and new entry gates. The project is consistent with all applicable Comprehensive Plan policies, including the Montecito Community plan, as well as relevant Article IV zoning regulations, including setbacks, parking, and height. The maximum height allowed per Article IV in the E-1 zone district is 38 feet, (35 feet plus an additional 3 feet if the roof pitch is 4:12 or greater.) Because the maximum height of the approved project is 37 feet, it can be found consistent with this finding. Findings of neighborhood compatibility were made by the MBAR.

- (ii) *that the proposed development is located on a legally created lot; and*

The project will be located on a legally created parcel, recorded in Assessor's Map Book 11, page 14, in the office of the County Clerk & Recorder and as such is a legally created parcel. The project is consistent with this finding.

- (iii) *that the subject property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and such zoning violation enforcement fees as established from time to time by the Board of Supervisors have been paid.*

The subject property is in compliance with all laws, rules, and regulations pertaining to zoning uses, height, setback and any other applicable divisions of Article IV. There are no zoning or building violations associated with the project site. As discussed in Finding 1.1.1., above, the project is consistent with all requirements of the Article IV Zoning Ordinance.

#### **6.4 Montecito Board of Architectural Review (MBAR)**

On August 10, 2005, the applicants submitted an application for a land use permit to construct a single-family residence with associated accessory structures at 700 Picacho Lane as described above. The project underwent conceptual Montecito Board of Architectural Review (MBAR) on July 11, 2005 and further conceptual review on July 25, 2005 and January 9, 2006. The project was continued for preliminary approval on February 27, 2006 and March 13, 2006. The project received favorable comments after several structural and landscaping revisions and thus proceeded for preliminary MBAR review on March 20, 2006 where it received preliminary approval. Final review by the MBAR would occur prior to permit issuance and has not yet been scheduled. In taking the action of preliminary approval, the MBAR was satisfied that the applicable findings were met, including a finding of neighborhood compatibility that reads:

*Overall building shapes, as well as parts of any structure (buildings, walls, fences, screens, towers, or signs) shall be in proportion to and compatible with the bulk and scale of other existing or permitted structures on the same site and in the neighborhood surrounding the property.*

For complete MBAR findings, see attachment A. For complete MBAR minutes, see attachment C.

#### **7.0 APPEALS PROCEDURE**

The action of the Montecito Planning Commission may be appealed to the Board of Supervisors within ten calendar days of said action.

#### **ATTACHMENTS**

- A. Land Use Permit Findings of Approval & Board of Architectural Review Findings of Approval
- B. Approved Land Use Permit, dated March 28, 2006
- C. Approved MBAR minutes
- D. Approved site plan, dated March 20, 2006
- E. MBAR approved landscape plan, dated March 20, 2006
- F. Neighborhood Floor Area Study
- G. Appeal Case No. 06APL-00000-00010, dated March 29, 2006 & Appeal Case No. 06APL-00000-00013, dated April 7, 2006

## **ATTACHMENT A: FINDINGS**

### **1.0 LAND USE PERMIT FINDINGS**

**Pursuant to Section 35-314.5 of the Article III Zoning Ordinance, a Land Use Permit shall only be issued if all of the following findings can be made:**

- 1. That the proposed development conforms to the applicable policies of the Comprehensive Plan, including the Montecito Community Plan and with the applicable provisions of Article IV (Montecito Zoning Ordinance).**

Land Use Permit 05LUP-00000-00952 (approved by staff on March 20, 2006) consists of approval for the construction of a new residence with basement and attached garage. Also approved was a guest house, detached garage with attached cabana located above the garage, a tennis court, a new pool, two driveways, several retaining walls and new entry gates. The project is consistent with all applicable Comprehensive Plan policies, including the Montecito Community plan, as well as relevant Article IV zoning regulations, including setbacks, parking, and height. The maximum height allowed per Article IV in the E-1 zone district is 35 feet (38 feet with a roof pitch of 4:12 or greater.) Because the maximum height of the approved project is 37 feet, it can be found consistent with this finding. Findings of neighborhood compatibility were made by the MBAR.

- 2. That the proposed development is located on a legally created lot.**

The project will be located on a legally created parcel, recorded in Assessor's Map Book 11, page 14, in the office of the County Clerk & Recorder and as such is a legally created parcel. The project is consistent with this finding.

- 3. That the subject property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivision, setbacks and any other applicable divisions of this Article, and such zoning violation enforcement fees as established from time to time by the Board of Supervisors has been paid. This subsection shall not be interpreted to impose new requirements on non-conforming uses and structures under Section 35-305 et seq.**

The subject property is in compliance with all laws, rules, and regulations pertaining to zoning uses, height, setback and any other applicable divisions of Article IV. There are no zoning violations associated with the project site. As discussed in Finding 1.1.1., above, the project is consistent with all requirements of the Article IV Zoning Ordinance.

### **2.0 BAR FINDINGS**

**Prior to approving any BAR application, the Board of Architectural Review shall make the following findings:** (The Montecito Board of Architectural Review does not make written findings similar to those findings made for land use permits. The below listed findings, including that for FAR, are implicit in the MBAR's March 20, 2006 preliminary approval.)

- 1. Overall building shapes, as well as parts of any structure (buildings, walls, fences, screens, towers, or signs) shall be in proportion to and compatible with the bulk and scale of other existing or permitted structures on the same site and in the neighborhood surrounding the property.**
- 2. Mechanical and electrical equipment shall be well integrated in the total design concept.**
- 3. There shall be harmony of material, color, and composition of all sides of a structure or building.**
- 4. A limited number of materials will be on the exterior face of the building or structure.**
- 5. There shall be a harmonious relationship with existing developments in the surrounding neighborhood, avoiding excessive variety and monotonous repetition, but allowing similarity of style, if warranted.**
- 6. Site layout, orientation, location and sizes of all structures, buildings, and signs on a property shall be in an appropriate and well designed relationship to one another, and to the environmental qualities, open spaces, and topography of the property with consideration for public views of the hillsides and the ocean and the semi-rural character of the community as viewed from scenic view corridors as shown on Figure 37, Visual Resources Map in the Montecito Community Plan EIR (92-EIR-03).**
- 7. Adequate landscaping shall be provided in proportion to the project and the site with regard to preservation of specimen and landmark trees, existing vegetation, selection of planting which will be appropriate to the project, and adequate provision for maintenance of all planting.**
- 8. Signs, including their lighting, shall be well designed and shall be appropriate in size and location.**
- 9. Grading and development shall be designed to avoid visible scarring and shall be in an appropriate and well designed relationship to the natural topography with regard to maintaining the natural appearance of ridgelines and hillsides.**

**10. The proposed development is consistent with any additional design standards as expressly adopted by the Board of Supervisors for a specific local community, area, or district pursuant to Sec. 35-473 (General Regulations) of this Article.**