



Brianda Negrete

From: Oliveros, Catherine A. <coliveros@MullenLaw.com>
Sent: Friday, December 9, 2022 11:54 AM
To: sbcob
Subject: Board of Supervisors December 13, 2022 Hearing
Attachments: Letter to Board of Supervisors re 2285 Lillie Ave, Summerland, CA.pdf

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Good morning,

Please see the attached letter from our office of today's date regarding the real property 2285 Lillie Avenue, Summerland CA (Case No. 22APL-000000-00022). If you have any questions, please let me know.

Thank you.

Catherine "Cat" Oliveros | Assistant to Graham M. Lyons, Gregory F. Faulkner, Ramón R. Gupta, Audrey K. Singh & Cameron T. Stowers | Mullen & Henzell L.L.P.
112 E. Victoria Street | Santa Barbara, CA 93101 | Tel: (805) 966-1501 | Fax: (805) 966-9204 | www.mullenlaw.com

Confidentiality Notice: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please reply to sender and delete the message and any attachments.

Mullen & Henzell L.L.P.
ATTORNEYS AT LAW

112 East Victoria Street
Santa Barbara, California 93101

Phone: (805) 966-1501
Fax: (805) 966-9204
www.mullenlaw.com

e-mail: glyons@mullenlaw.com

December 9, 2022

Via email: sbcob@co.santa-barbara.ca.us

Santa Barbara County Board of Supervisors
123 E. Anapamu Street
Santa Barbara, CA 93101

**Re: Board of Supervisors December 13, 2022 Hearing
Item #2 (22-01127)
Case No. 22APL-000000-00022
Appeal of Planning Commission Approval
Fuel Depot/The Point Signs Project
2285 Lillie Avenue, Summerland, CA**

Honorable Supervisors:

This office represents John Price, the applicant for the above-captioned sign permit (the "Project"). The Planning Commission approved the Project on June 1, 2022. On June 13, 2022, the Summerland Citizen's Association ("SCA") appealed the Planning Commission's decision, arguing, among other things, that the Planning Commission misinterpreted the County's zoning ordinance in approving the Project. We are writing in support of County staff's recommendation that the Board deny SCA's appeal, approve the Project, and grant Preliminary and Final design approval.

1. The Project Complies with Applicable Sign Standards

The primary argument in SCA's appeal is that the proposed Fuel Depot sign located on the southside of the building does not comply with applicable sign standards because it "is not located on a street frontage, including because the property does not have access from Highway 101."

Here, SCA is referring to County Code Article II, Section 35-138.A.2.a., which applies specifically to Summerland and allows "[o]ne or more wall signs on each street frontage unlighted or directly lighted" (*emphasis added*) in certain zones, including that of the subject property.

SCA correctly states that this provision of Article II is among the “special sign standards [applicable to Summerland] which control in the event of a conflict with other applicable regulations.” However, SCA’s interpretation of the Summerland-specific regulations is incorrect for two reasons.

Definition of “Street Frontage”

First, Article I of the County Code defines “street frontage” differently from the Summerland-specific provisions in Article II. The definitions set forth in Article II are to be used for purposes of interpreting Article II. (See County Code, Article II, §35-58 (“If any of the definitions in this Division conflict with definitions in other provisions of the County Code, these definitions shall control for the purposes of this Article”).)

SCA’s appeal quotes Article I’s definition of “street frontage,” which is “*the footage of the property that abuts an improved street or streets open to public use to which the property has access.*” (See LUDC § 35.11.)

Article II, applicable to the Project, defines “street frontage” as simply “*the portion of a property abutting a public or private street.*” The word “abut,” in turn, means “[t]o physically touch or border upon; or to share a common property line.” (County Code, Article II, §35-58.)

It is indisputable that the subject property abuts and shares a common property line with Highway 101. That is all that is required for purposes of Article II. As a result, SCA’s contention that the Project is not in compliance with applicable standards is without merit.

Planning Commission’s Authority to Interpret Regulations

Second, the Planning Commission made a specific finding that “both signs are located along street frontages.” (Action Letter § 6.4.) This finding was made on the basis that “[b]oth Lillie Avenue and Highway 101 are public rights-of-way, open for public use, to which the property has access to the traveling public for purposes of identifying and promoting its business.” (*Id.*)

In making this finding, the Planning Commission referred specifically to the Article I definition (which includes the phrase “to which the property has access”). The Planning Commission made a reasonable determination that “access” includes “access to the traveling public for purposes of identifying and promoting [the property owner’s] business.”

As a public agency, the County acting through its Planning Commission has the authority to interpret its own zoning regulations; courts grant public agencies deference under these circumstances and “resolve reasonable doubts in favor of the administrative findings and decision.” (See, e.g., *Craik v. City of Santa Cruz*, 81 Cal. App. 4th 880, 885 (2000).)

Even when there is more than one way to interpret an ordinance, courts defer to the public agency's interpretation as long as it is reasonable and supported by the record. (See, e.g., 81 Cal. App. 4th at 890 ("The point here is that plaintiffs define [the issue at hand] in one way and [the public agency] defines it] in another way. Neither construction is unreasonable. We therefore defer to [the agency]'s construction."))

Thus, regardless of which definition of "street frontage" is used, it is clear that the proposed signage meets the applicable requirements.

2. The Planning Commission Made Appropriate Findings Regarding the Project's Compliance with Applicable Zoning Regulations

Second, SCA argues that the Planning Commission failed to make a finding that "the proposed signage is in compliance with Chapter 35.38 (Sign Standards),' which for Summerland include CZO § 35-138."

This is an issue of semantics. The Planning Commission made a finding that the Project "complies with the development standards applicable to signs in the Summerland Community Plan area pursuant to Section 35-138 of Article II." (See Action Letter, Attachment A, Section 2.1.) The Coastal Zoning Ordinance specifically contemplates that compliance with Section 35-138 of Article II requires compliance with Chapter 35 of Article I. It provides:

"Except as provided below, signs and advertising structures are regulated by Article 1 of this Chapter 35 of the Code of Santa Barbara County and any amendments thereto." (See CZO § 35-138.)

Furthermore, Section 35-138 of Article II generally imposes more burdensome requirements on wall signs than Chapter 35 of Article I. For example, the maximum size of a wall sign under Article II is significantly smaller than under Chapter 35 of Article I.¹ In other words, compliance with Section 35-138 of Article II necessarily includes compliance with Chapter 35 of Article I.

Moreover, the Planning Commission made specific findings as to all sign requirements set forth in Chapter 35 of Article I.² Those requirements are as follows:

¹ Article I states that wall signs cannot exceed one-eighth of the square footage of the structure façade, and cannot exceed 100 square feet (LUDC §35.38.090.C.1.), whereas Article II requires that wall signs do not exceed the lesser of *one-tenth* of the square footage of the structure façade or 60 square feet. (CZO § 35-138.A.2.a.)

² Certain requirements are not applicable to the Project and are not addressed by the Planning Commission; for example, there are no findings regarding sign structures (see LUDC § 35.38.050) as there is no separate sign structure in the proposed Project.

LUDC Provision	Planning Commission Finding
"Signs ... shall meet the height and setback regulations of the specific zone in which they are located." (LUDC § 35.38.050.B.)	"[T]he proposed project conforms to all laws, rules, and regulations pertaining to zoning uses, subdivisions, height requirements, setbacks, and the other applicable provisions of the Article II Coastal Zoning Ordinance." (Action Letter, Attachment A, § 2.1.)
"The sign area on each frontage shall not exceed one-eighth of the square footage of the structure façade of that portion of the floor occupied by the enterprise and upon which façade the wall sign is to be located." (LUDC § 35.38.090.C.1.a.)	"Wall sign 'B' measures 42.5 sq. ft., and comprises 3.7% of the structure's northern façade upon which the sign is to be located." (Action Letter, § 6.4.) "The signs comply with the size and location requirements applicable to signs in the Summerland Community Plan area." (Action Letter, Attachment A, § 2.2.A.10.)
"Each sign shall not exceed 100 square feet in sign area unless a Sign Modification is approved...." (LUDC § 35.38.090.C.1.c.)	See above.

Even if the Planning Commission's Action Letter did not include the phrase "the proposed signage is in compliance with Chapter 35.38 (Sign Standards)" verbatim, it made all the required substantive findings, including a finding that the Project is in compliance with the more burdensome requirements of Article II, Section 35-138.

3. The Planning Commission Properly Issued a Sign Certificate of Conformance

SCA next argues that the Planning Commission should not have issued a Sign Certificate of Conformance for the Project because "[t]here are currently 12 other unpermitted signs on the parcel," and therefore the subject property is not in compliance with all applicable laws, regulations and rules.

SCA does not identify any signs on the subject property to which it objects, either by description or photograph, nor does it provide any evidence or reason to believe such signs are unpermitted. However, the applicant believes that SCA is objecting to the signage on each fuel pump at the service station and the pylon sign showing the gas prices.

These signs are all required by California law. The California Business and Professions Code requires service stations to conspicuously display certain information, including gas pricing and applicable taxes, on the fuel dispensing apparatus. (See Bus. & Prof. Code §§ 13471, 13471, 13651.) It also

requires that the gas prices be advertised in a manner that is “clearly visible from the street or highway adjacent to the premises.” (Bus. & Prof. Code § 13531.)

Because these signs are required by state law, they are exempt from the County’s sign regulations. Section 35.38.030 of the County Code lists “signs, flags and devices” that are exempt from the sign regulations. The exemptions include “[s]igns required to be maintained or posted by law or governmental order, rule, or regulation.” (Section 35.38.030.D.)

Therefore, the Planning Commission did not err in finding that there are “no violations on the parcel” or that the Project “complies with the development standards applicable to signs in the Summerland Community Plan area pursuant to Section 35-138 of Article II.” (See Action Letter, Attachment A, §2.1.)

4. The Proposed Signs Conform with the Existing Community

Finally, SCA argues that the Fuel Depot sign located on the southside of the building is “unlike any other existing or permitted signs in the area,” and that therefore, the Design Review Committee erred in finding that the proposed signs are in conformance with the existing community. SCA’s basis for this argument is that there are no other permitted signs that are lighted and face Highway 101.

Nothing in the Land Use Development Code or the Coastal Zoning Ordinance requires an applicant to show that every aspect of a proposed sign is like another existing and permitted sign in the area. However, in this case, there are several existing, permitted signs facing Highway 101, some of which are lighted. Examples include the following:

- Summerland Inn Sign (06SCC-00007)
- Marc Alexander DDS Sign (14SCC-00014)
- McCormix Gas Station Sign (88-CDP-192, 88-BAR-362)
- Red Kettle Coffee Sign (16SCC-00000-00004)
- Surf Happens Sign (LUR Permit 4575)

The Planning Commission further found that the proposed signs “are well designed and appropriate in size and location” and “comply with the size and location requirements applicable to signs in the Summerland Community Plan area,” and that “[t]he gooseneck design for the lighting is consistent with other light fixtures illuminating signs elsewhere within the commercial corridor of Summerland.” (See Action Letter, Attachment A, §2.2.A.10.)

5. Conclusion

Not only does the Project meet all applicable regulatory requirements, but it also is consistent with other similar signage approved by the County in the area. It meets the Summerland-specific requirements as well as the general requirements set forth in Chapter 35.38 of the County Code. For these reasons, we respectfully request on behalf of the applicant that you deny SCA's appeal, approve the Project, and grant Preliminary and Final Design approval.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Graham M. Lyons', with a long horizontal flourish extending to the right.

Graham M. Lyons of
Mullen & Henzell L.L.P.