

ATTACHMENT-1: FINDINGS FOR DENIAL

1.0 CEQA FINDINGS

1.1 CEQA EXEMPTION

The Board of Supervisors finds that the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15270. Please see Attachment-2, Notice of Exemption for Denial, to the Board Letter dated January 9, 2018.

2.0 ADMINISTRATIVE FINDINGS

The analyses below are limited to the required findings which cannot be made for the project.

2.1 GENERAL PLAN AMENDMENT FINDINGS

Government Code Section 65358 requires a General Plan amendment to be in the public interest.

1.0 As discussed in Attachments 3 and 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, based on the documents submitted by the Applicant and analysis of those documents by the County, no adequate access or easements to extend sewer services or access to the property exist. In addition, the project is proposed to be constructed 24 feet from the bluff edge, which does not meet the 27 foot setback recommended in the geologic study (Evaluation of Bluff Stability and Seacliff Retreat, Michael Hoover, January 6, 2012) to be safe from the threat of bluff erosion for a minimum of 75 years (a standard required by Coastal Plan Policy 3-4). It would not be in the public interest to convert a property from recreational to residential land use and zoning designations when no current means of accessing or providing sewer service to the residential development exists and where a property is subject to geologic constraints with the potential to jeopardize the safety of the structure over the life of the project (75 years). Therefore, the proposed General Plan amendment is not in the public interest and this finding cannot be made.

2.2

ARTICLE II COASTAL ZONING ORDINANCE FINDINGS

2.2.1

AMENDMENT TO ARTICLE II OR ZONING MAP AMENDMENT (REZONE) FINDINGS

- A. Findings required for Approval or Conditional Approval of a Rezone or Ordinance Amendment.** In compliance with Section 35-180.6 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Rezone or Zoning Ordinance amendment, the decision-maker shall first make all of the following findings:

1. The request is in the interests of the general community welfare.

As discussed in Attachments 3 and 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, based on the documents submitted by the Applicant and analysis of those documents by the County, no adequate access or easements to extend sewer services or access to the property exist. In addition, the project is proposed to be constructed 24 feet from the bluff edge, which does not meet the 27 foot setback recommended in the geologic study (Evaluation of Bluff Stability and Seacliff Retreat, Michael Hoover, January 6, 2012) to be safe from the threat of bluff erosion for a minimum of 75 years (a standard required by Coastal Plan Policy 3-4). It would not be in the interest of community welfare to convert a property from recreational to residential land use and zoning designations when no current means of accessing or providing sewer service to the residential development exists and where a property is subject to geologic constraints with the potential to jeopardize the safety of the structure over the life of the project (75 years). Therefore, the request is not in the interested of the general community welfare and this finding cannot be made.

2. The request is consistent with the Comprehensive Plan, the Coastal Land Use Plan, the requirements of the State planning and zoning laws, and this Article.

As discussed in Attachments 3 and 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, the proposed project is inconsistent with a number of applicable policies of the County Comprehensive Plan, including the Coastal Land Use Plan and Summerland Community Plan, and with requirements of the Article II Coastal Zoning Ordinance. Therefore, this finding cannot be made.

3. The request is consistent with good zoning and planning practices.

As discussed in Attachments 3 and 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, based on the documents submitted by the Applicant and analysis of those documents by the County, no adequate access or easements to extend sewer services or access to the property exist. In addition, the project is proposed to be constructed 24 feet from the bluff edge, which does not meet the 27 foot setback recommended in the geologic study (Evaluation of Bluff Stability and Seacliff Retreat, Michael Hoover, January 6, 2012) to be safe from the threat of bluff erosion for a minimum of 75 years (a standard required by Coastal Plan Policy 3-4). It would not be in the interest of community welfare to convert a property from recreational to residential land use and zoning designations when no current means of accessing or providing sewer service to the residential development exists and where a property is subject to geologic constraints with the potential to jeopardize the safety of the structure over the life of the project (75 years). Therefore, the request is inconsistent with good zoning and planning practices and this finding cannot be made.

2.2.2 VARIANCE FINDINGS

A. Findings required for all Variances. In compliance with Section 35-173.6 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Variance the decision-maker shall first make all of the following findings:

- 1. Because of special circumstances applicable to the property, including but not limited to size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.**

The proposed project requests a rezone from REC (Recreation) to 7-R-1 (Residential), a Local Coastal Program Amendment to change the land use designation of the property from Recreation/Open Space to Residential, and a Variance to reduce setbacks and to eliminate on-site parking instead of providing the 2 uncovered parking spaces required under the 7-R-1 zone district. As discussed in Finding 2.1 and 2.2.1 above, the findings for the rezone and

amendment cannot be made. Without the rezone, a residence cannot be constructed and a parking variance would therefore be unnecessary. Even if the rezone and amendment were approved, in addition (as discussed below) the findings for a variance cannot be made.

The subject property is 0.10 acres in size, is located between a coastal bluff and UPRR tracks, and is proposed to be rezoned to 7-R-1. Residential properties zoned 7-R-1 are located approximately 0.3 miles to the northwest of the subject parcel. These residential lots are also located adjacent to a coastal bluff and adjacent to the UPRR tracks and therefore have the same site constraints as the subject lot. These residential lots range in size from 0.16 to 0.3 acres in size and are square or rectangular in shape. Therefore, they are similar in size to the subject 0.10 acre square/rectangle lot. These properties are also topographically similar to the subject lot. Variances have not been granted to these lots to reduce or eliminate parking and therefore development on these properties has been required to meet on-site parking standards in effect at the time of lot development. In addition, staff review of previously issued variances throughout Summerland did not yield documentation of variances to eliminate on-site parking on residential properties within the Summerland Community Plan area as a whole. Therefore, the property is not subject to special circumstances warranting elimination of all on-site parking and a variance to eliminate parking would be a grant of special privileges. The strict application of the Zoning Ordinance to the project does not deprive the Applicant of privilege enjoyed by other property in the vicinity and under identical zoning classification

In addition, given a circumstance under which the project was brought into compliance with the 75 year bluff retreat setback of 27 feet (which the currently proposed project is not) an area of 1,485 square feet would remain available for development (not including a potential second story). The two parking spaces required by the ordinance would require an area of approximately 280 square feet, leaving approximately 1,205 square feet for development (not including a potential second story). Therefore, adequate area exists on-site to provide for both parking and a single family dwelling, similar to other properties in the vicinity. In summary, the application of zoning ordinance requirements would not deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification as the proposed zoning classification, and this finding cannot be made.

2. The granting of the variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

As proposed, the project would need a variance for zero uncovered parking spaces instead of the 2 uncovered parking spaces required under the 7-R-1 zone district. Based upon staff review of previously issued variances throughout Summerland, no variance for zero parking spaces has been issued to a residential property within the Summerland Community Plan area. Properties of similar size and similar site constraints as the subject lot, with residential zoning) located within the Summerland community are all required to provide on-site parking. Residential properties zoned 7-R-1 and located approximately 0.3 miles to the northwest of the subject parcel are located adjacent to a coastal bluff, adjacent to the UPRR tracks, and range in size from .16 to .3 acres in size while supporting both single family residences and on-site parking. Therefore, the requested variance would constitute a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity, and this finding cannot be made.

3. That the granting of the variance will not be in conflict with the intent and purpose of this Article or the adopted Santa Barbara County Coastal Land Use Plan.

The property is currently zoned (REC) and is proposed to be rezoned to 7-R-1 (single-family residential). Pursuant to Article II, Section 35-71.1, the purpose of the R-1/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 [the] district to protect the residential characteristics of an area and to promote a suitable environment for family life.”* As discussed in Attachment 3 of the Board Letter dated January 9, 2018, and incorporated herein by reference, the proposed project is inconsistent with a number of applicable policies of the County Comprehensive Plan, including the Coastal Land Use Plan and Summerland Community Plan. Notably, based on the documents submitted by the Applicant and analysis of those documents by the County, adequate access to the property and a sewer line easement do not exist. The granting of a variance for a project proposal that is inconsistent with applicable policies, including lack of access and sanitary service, would not be consistent with *“sound standards of public health, welfare, and safety,”* or with the adopted Santa Barbara County Coastal Land Use Plan. Therefore, this finding cannot be made and the project is recommended for denial.

2.2.3 COASTAL DEVELOPMENT PERMIT FINDINGS

- A. Findings required for all Coastal Development Permits. In compliance with Section 35-60.5 of the Article II Coastal Zoning Ordinance, prior to issuance of a Coastal Development Permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.**

As discussed in Attachments 3 and 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, based on the documents submitted by the Applicant and analysis of those documents by the County, no adequate access or ability to extend sewer services to the property exists. Therefore, adequate services to serve the proposed development do not exist and this finding cannot be made.

- B. Findings required for Coastal Development Permit applications subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission. In compliance with Section 35-169.5.3 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission the decision-maker shall first make all of the following findings:**

1. The proposed development conforms:

- a. To the applicable provisions of the Comprehensive Plan, including the Coastal Land Use Plan;**

As discussed in Attachments 3 and 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, the proposed project is inconsistent with a number of applicable policies of the County Comprehensive Plan, including the Coastal Land Use Plan and Summerland Community Plan and with requirements of the Article II Coastal Zoning Ordinance. Therefore, this finding cannot be made.

- b. The applicable provisions of this Article or the project falls within the limited exceptions allowed in compliance with Section 161 (Nonconforming Use of Land, Buildings and Structures).**

As discussed in Attachment 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, the proposed project is inconsistent with a number of the requirements of the Article II Coastal Zoning Ordinance. In addition, the proposed development does not fall within the limited exceptions of Section 35-161 because it is not a historic landmark, it is not located on property zoned SR-M or SR-H, and it is not located within a zone district which allows residential use as a permitted use requiring only a Coastal Development Permit. Therefore, this finding cannot be made.

- 2. The subject property and development on the 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 any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).**

The partially completed residence on-site was constructed without the benefit of permits from Santa Barbara County. It fully encroaches into the northern setback as well as partially onto the adjacent UPRR property and the findings to grant a setback variance cannot be made as discussed in Finding 2.2.2, incorporated by reference. Based on the documents submitted by the Applicant and analysis of those documents by the County, as discussed in detail in Attachment 3 of the Board Letter dated January 9, 2018, and incorporated herein by reference, the residence does not currently have legal access or an easement for a sewer line. As discussed in further in Attachment 4 of the Board Letter dated January 9, 2018, and incorporated herein by reference, the proposed project is inconsistent with the requirements of the Article II Coastal Zoning Ordinance. Therefore, the subject property is not in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of the Article II Coastal Zoning Ordinance and this finding cannot be made.

