

ATTACHMENT-5: FINDINGS OF APPROVAL

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 15265, 15301(l)(1), and 15303(a). Please see Attachment-7, Notice of Exemption for approval, to the Board Letter dated January 9, 2018.

2.0 ADMINISTRATIVE FINDINGS

2.1 GENERAL PLAN AMENDMENT FINDINGS

Government Code Section 65358 requires a General Plan amendment to be in the public interest. The General Plan amendment is in the public interest for the following reasons:

A single family dwelling was constructed on the subject property in 1900. That dwelling became non-conforming in 1984 due to a re-designation of the property for recreational uses. The current property owner resided in said dwelling for a number of years and, in 2007, demolished the dwelling and initiated construction of a new one in its place. In order to allow redevelopment of a single-family dwelling on the subject property, the proposed General Plan Amendment is required to change the land use designation of the property from Recreation/Open Space to Residential, as a single family dwelling is not a permitted use on lands designated Recreation/Open Space.

The subject parcel is not well suited to recreational use. The site is a small 0.10 acre (4,356 square foot) property isolated amongst generally vacant parcels owned by the railroad, with the parcel bordering the north of the subject property developed with UPRR railroad tracks. Moreover the site is separated from the beach by a steep coastal bluff. Therefore the property does not provide the potential for high quality recreational opportunities. In addition, Lookout Park, located approximately 0.45 miles west of the subject property, currently provides public beach access, parking, picnic tables, restrooms and children's playground amenities.

It is in the interest of the public for a resident of the community to be allowed to redevelop a residence on property under their ownership, which was historically used

for residential purposes, and for a privately owned property to not be maintained with a Recreation/Open Space land use designation when the property is not well-suited for recreational use. Therefore, this finding can 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.

The subject property was historically developed with a single family residence and the current property owner resided in said residence for a number of years. In order to allow redevelopment of a single-family dwelling on the subject property, a Rezone is required to change the zoning of the property from REC to 7-R-1, as residential uses are not permitted in the REC zone district while they are specifically contemplated in the R-1 zone.

The subject parcel is not well suited to recreational use. The site is a small 0.10 acre (4,356 square foot) property isolated amongst generally vacant parcels owned by the railroad, with the parcel bordering the north of the subject property developed with UPRR railroad tracks. Moreover the site is separated from the beach by a steep coastal bluff. Therefore the property does not provide the potential for high quality recreational opportunities. In addition, Lookout Park, located approximately 0.45 miles from the subject property, currently provides public beach access, parking, picnic tables, restrooms and children's playground amenities.

It is in the interest of the general community welfare for a resident of the community to be allowed to redevelop a residence on property under their ownership, which was historically used for residential purposes, and for a privately owned property to not be maintained with recreational zoning when the property is not well-suited for recreational use. Therefore, this finding can 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 Attachment 10 (Policy Consistency Analysis) and Attachment 11 (Ordinance Consistency Analysis), to the Board Letter dated January 9, 2018, and incorporated herein by reference, with approval of the General Plan Amendment and Rezone, and as conditioned, the project would be consistent with the Comprehensive Plan, including the Coastal Land Use Plan and the Summerland Community Plan, as well as with the requirements of the Article II Coastal Zoning Ordinance. The proposed rezone of the property to 7-R-1 is consistent with the proposed land use designation change to Residential-4.6 units/acre as both allow residential use on relatively small sized parcels. Consequently, the project is consistent with State planning and zoning laws. Therefore, this finding can be made.

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

The subject property was historically developed with a single family residence and the current property owner resided in said residence for a number of years. In order to allow redevelopment of a single-family dwelling on the subject property, a Rezone is required to change the zoning of the property from REC to 7-R-1.

The subject parcel is not well suited to recreational use. The site is a small 0.10 acre (4,356 square foot) property isolated amongst generally vacant parcels owned by the railroad, with the parcel bordering the north of the subject property developed with UPRR railroad tracks. Moreover, the site is separated from the beach by a steep coastal bluff. Therefore the property does not provide the potential for high quality recreational opportunities. In addition, Lookout Park, located approximately 0.45 miles from the subject property, currently provides beach access, parking, picnic tables, restrooms and children's playground amenities.

It is consistent with good zoning and planning practices for to allow continued residential use of a property that has been used for residential purposes for over 100 years (many of those years with a non-conforming residence), and for a privately owned property to not be maintained with recreational zoning when the property is not well-suited for recreational use. Therefore, this finding can 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.**

As discussed in Attachments 10 and 11 of the January 9, 2018 Board Letter, and incorporated herein by reference, this finding can be made. The special circumstances applicable to the property relate to its size, location, topography and surroundings. The property is relatively small, at 0.10 acres in size, and is constrained by a coastal bluff and required bluff-top setback to the south. In addition, the property is constrained by UPRR tracks to the north. Following approval of the proposed rezone, the property will be zoned 7-R-1. The majority of other 7-R-1 zone district parcels are not as small as .10 acres in size in combination with being located adjacent to a coastal bluff and UPRR tracks. Therefore, special circumstances are applicable to this property without a variance would be deprived of privileges enjoyed by other property in the vicinity, therefore_ and this finding can 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.**

The project includes a variance from the parking and setback regulations in compliance with Section 35-173 of the Article II Coastal Zoning Ordinance on property zoned 7-R-1, to allow: a north setback of 2 feet 4 inches instead of the required 10 feet; an east setback of 8 feet instead of the required 10 feet; and, zero uncovered parking spaces instead of the required 2 uncovered parking spaces. Approval of the setback and parking variance requests will not constitute a grant of special privileges, as the property is constrained by unique circumstances, such as

size, limiting available development area, and as a number of variances have previously been granted for constrained residentially zoned properties within the Summerland community. For example, Case No. 09VAR-00000-00001 granted a front setback variance for a duplex on property zoned 10-R-2 (reducing the required 16 foot setback by 1 foot) and 13VAR-00000-00003 reduced the required 10 foot setback by 8 feet (resulting in a 2 foot setback) for a residence on property zoned 7-R-1. Therefore, this finding can 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 (Recreation) 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-10 (Policy Consistency Analysis) and Attachment-11 (Ordinance Consistency Analysis), to the Board Letter dated January 9, 2018, and incorporated herein by reference, the project (including the Coastal Development Permit, Variance, General Plan Amendment, and Rezone) is consistent with the requirements of the Article II Coastal Zoning Ordinance and with the Comprehensive Plan, including the Coastal Land Use Plan and Summerland Community Plan. Specifically, the Policy Consistency analysis finds that adequate services are available to serve the subject property (as conditioned), that the proposed home will be sufficiently set back from the adjacent bluff to preserve the safety of the home for 50 years, and that feasible construction measures will ensure that noise levels will not exceed acceptable limits for residents living on-site. Therefore the granting of the setback and parking variance requests will not be in conflict with the intent and purpose of Article II or the Coastal Land Use Plan.

4. The applicant agrees in writing to comply with all conditions imposed by the County.

Prior to issuance of the Coastal Development Permit, the applicant shall be required to sign the permit agreeing to comply with all conditions of approval that have been imposed by the County. Therefore, this finding can be made.

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.**

Water service for the site will be provided by the Montecito Water District. The Montecito Water District provided a Certificate of Water Service Availability dated August 14, 2015 and an existing waterline located within an existing easement provides water service to the site. Sanitary service will be provided by the Summerland Sanitary District. The Summerland Sanitary District provided a "Can and Will Serve" letter dated July 31, 2017. The letter specifies that the property owner is responsible for complying with all District requirements for a connection permit. Condition 20 (Attachment-6 to this Board letter) requires that prior to issuance of the Coastal Development Permit, the applicant update the project site plan to indicate the location of the proposed sewer line and sewer line easement and provide written confirmation from the Summerland Sanitary District that the updated plans and project have complied with all District requirements for connection. Pursuant to the applicant, access is provided by an unnamed access road via Wallace Avenue. Historic documents presented by the applicant pertaining to the unnamed access road are included as Attachments 16 and 17 of Attachment-15 to the Board Letter dated January 9, 2018. Fire Service will be provided by the Carpinteria-Summerland Fire District and police services will be provided by the County Sherriff. Therefore, this finding can 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;

- 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-10 (Policy Consistency Analysis) and Attachment-11 (Ordinance Consistency Analysis), to the Board Letter dated January 9, 2018, and incorporated herein by reference, the project is consistent with the requirements of the Comprehensive Plan, including the Coastal Land Use Plan and the Summerland Community Plan, and with the Article II Coastal Zoning Ordinance. Therefore, this finding can be made.

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

The subject property is shown as Lots 27, 28, and 29 in Block 39 of the Town of Summerland, in the County of Santa Barbara, State of California, as per Rack No. 1, Map No. 2 in the office of the Recorder of said County. Therefore, this finding can be made.

- 3. 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).**

In 2007, the unpermitted demolition of all but one wall of the nonconforming residence and the initiation of construction of a new two-story residence on the subject property resulted in the creation of Building Violation Case No. 07BDV-00000-00020. The partially built, unpermitted residence continues to exist on-site. The proposed project will change the land use designation and zoning of the parcel to allow for single family dwelling use. Additionally, it will permit demolition of the unpermitted dwelling and construction of a new single family dwelling, thereby rectifying the existing violation and bringing the subject property into compliance with the provisions of the Article II Coastal Zoning Ordinance. To date, all applicable processing and enforcement fees have been paid. Therefore, this finding can be made.

4. The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

The site is located along an approximately 4,000 foot stretch of Highway 101 containing, for the most part, broad unobstructed ocean views. The area south of the highway, and containing the subject property, is within a view corridor overlay. The subject property is notable due to its existing mature trees and shrubs, and is visible from Lillie Ave. (Lillie Ave, bike trail, sidewalk), Greenwell Ave. at Lillie, and from Highway 101 North and South. From these vantage points, the proposed two-story residence will partially block views of the ocean as evidenced by its current partially constructed state. However, the proposed residence is only 55 feet in length, which is approximately 1% of the currently available 4,000 foot long public ocean viewing area along this stretch of highway. In addition, the residence will be framed and partially obstructed by the existing mature trees and shrubs located on-site that already create a brief view blockage of the ocean as seen from the highway. The residence will not block public views up and down the beach and, given the height of the bluff which already dominates views north, it will not block mountain views from the beach. Finally, the South Board of Architectural Review (BAR) indicated that they “[Accept] the height as proposed in exceedence of view corridor height limitations for good design,” and that the project “will add to the character of the area.” Please see Attachment-12 of the Board Letter dated January 9, 2018 for the full BAR meeting minutes. Therefore, this finding can be made.

5. The proposed development will be compatible with the established physical scale of the area.

The subject property is surrounded on all sides by UPRR owned property that is either undeveloped, or developed with railroad tracks. A small shed is located on the UPRR parcel to the east of the subject property. The subject property contains trees and shrubs. Consequently, the physical scale of the area is defined by open space and existing vegetation rather than structures. The proposed residence is below the height of the tallest surrounding vegetation and therefore the proposed development will be compatible with the established physical scale of the area, and this finding can be made.

6. The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.

Lookout Park, located approximately 0.45 miles from the subject property, currently provides public beach access, parking, picnic tables, restrooms and children's playground amenities. Therefore, public access is already available in close proximity to the project site, and a new access easement on the subject property is not needed. In addition, as discussed under the recreation discussion in Attachment 10 of the January 9, 2018 Board letter, and incorporated herein by reference, the project will comply with all applicable public access and recreation policies of the Comprehensive Plan including the Coastal Land Use Plan. Therefore this finding can be made.