

ATTACHMENT 4: FINDINGS FOR APPROVAL

1.0 CEQA FINDINGS

1.1 NEGATIVE DECLARATIONS

1.1.1 CONSIDERATION OF THE MITIGATED NEGATIVE DECLARATION AND FULL DISCLOSURE

The Board of Supervisors has considered the Mitigated Negative Declaration (MND) together with the comments received and considered during the public review process. The MND reflects the independent judgment and analysis of the Board of Supervisors and has been completed in compliance with CEQA, and is adequate for this proposal.

1.1.2 FINDING OF NO SIGNIFICANT EFFECT

On the basis of the whole record, including the MND and any comments received, the County Board of Supervisors finds that through feasible conditions placed upon the project, the significant impacts on the environment have been eliminated or substantially mitigated, and on the basis of the whole record (including the final MND and comments received), there is no substantial evidence that the project will have a significant effect on the environment.

1.1.3 LOCATION OF DOCUMENTS

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Clerk of the Board of Supervisors located at 105 East Anapamu Street, Santa Barbara, CA 93101.

1.1.4 ENVIRONMENTAL REPORTING AND MONITORING PROGRAM

Public Resources Code Section 21081.6 and CEQA Guidelines Section 15074(d) require the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to avoid or substantially lessen significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the reporting and monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

2.0 ADMINISTRATIVE FINDINGS - LAND USE AND DEVELOPMENT CODE

In order for a Land Use Permit for new development to be approved, the proposed development must comply with all applicable requirements of the County LUDC and policies of the County Comprehensive Plan.

2.1 LAND USE PERMIT (LUP) FINDINGS

2.1.1 *Finding required for all Land Use Permits. In compliance with Section 35.30.100.A of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Land Use Permit the review authority shall first find, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (e.g., water, sewer, roads) are available to serve the proposed development.*

The project is limited to construction and use of a secondary access road, with no related development. As identified in the discussion of Land Use Development Policy 4 in Attachment 5 of the Board letter for the Board of Supervisors hearing of July 17, 2018, incorporated herein by reference, the secondary access road does not generate demand for additional public or private services. The access road would be designed to meet access requirements as approved by the Carpinteria-Summerland Fire Protection District and the project is supported by the Carpinteria-Summerland Fire Protection District, as identified in the Applicant's Appeals to the County Planning Commission and Board of Supervisors, incorporated herein by reference. Therefore, this finding can be made.

2.1.2 *Findings required for all Land Use Permits. In compliance with Subsection 35.82.110.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Land Use Permit the review authority shall first make all of the following findings:*

1. *The proposed development conforms:*
 - a. *To the applicable provisions of the Comprehensive Plan, including any applicable community or area plan.*

As discussed in Attachment 5 of the Board letter for the July 17, 2018 Board hearing, as well as in the Applicant's Appeal to the County Planning Commission (Attachment 5E of Attachment 9 to the July 2018 Board Agenda Letter) and the Applicant's Appeal to the Board of Supervisors (Attachment 3 to the July 2018

Board Agenda Letter), all incorporated herein by reference, the Board has determined that the project conforms to the applicable provisions of the Comprehensive Plan, including the Toro Canyon Plan. In addition, the Board finds that: 1) To the extent the project is located within a designated Environmentally Sensitive Habitat (ESH) identified in the Toro Canyon Plan, project conditions of approval require protection, restoration and enhancement of habitat to off-set the project's effects; and 2) The project conditions of approval prohibit future development along the access road and prohibit future development elsewhere on the project site from using the secondary road as a primary access to reduce impacts to the ESH to the maximum extent practical.

b. With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).

As discussed in Attachment 5 to the Board letter for the July 18, 2018 Board of Supervisors hearing, incorporated herein by reference, the project conforms to the applicable provisions of Land Use and Development Code (LUDC) for the inland portions of Santa Barbara County, including but not limited to the Toro Canyon Plan Area Development Standards (LUDC Attachment 1, Part 7). Also, see discussion of finding "1a." immediately above, incorporated herein by reference.

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

In 1997, the County approved land use permits for a single family dwelling and accessory structures, including 97-LUS-011 and 97-LUS-098. Therefore, the lot is considered legally created for planning purposes and this finding can be made.

3. *The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks and any other applicable provisions of this Development Code, 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 Chapter 35.101 (Nonconforming Uses, Structures, and Lots).*

Based on available information, the property is in compliance with all laws, regulations and rules pertaining to uses, subdivisions, setbacks and provisions of the LUDC, with three clarifications:

- a. Prior to 2004, the property's zoning was 40-E-1 (a single family residential zone district) and the property's Comprehensive Plan land use designation was A-II-40 (an agricultural designation). Although the minimum parcel sizes were consistent, the residential zoning was inconsistent with the agricultural land use designation. The Grading Ordinance in effect between 1997 and 2000, when the Myers developed the property, allowed for agricultural grading and planting without a permit on properties with either agricultural zoning or an agricultural land use designation. Therefore, the dirt road constructed without permits between the Myers residential home-site and the water well to the north is considered legal non-conforming, as are agricultural plantings (as well as replacement plantings due to loss) planted within the EHS area prior to 2004.
- b. The 2015 partial grading of the secondary access road occurred without benefit of required approval of a land use permit and grading permit. However, upon Board of Supervisors approval of the project, as conditioned (per Attachment 6 of the Board letter for the July 17, 2018 Board hearing), the violation will be abated and the project will be in compliance with all applicable laws, regulations and rules.
- c. The property is potentially inconsistent with the Land Use and Development Code with regard to use of the property as a place for business if the accessory structure is being used as the architectural office for Barton Myers Associates, Inc. architectural firm. In order to ensure that use of the property will be in compliance with the Land Use and Development Code with regard to accessory structures and home occupations, Attachment 6, project Condition No. 28, incorporated herein by reference, requires the applicant obtain a Home Occupation permit or otherwise demonstrate to the satisfaction of Planning and Development that any and all uses of the property as a place of business comply with the provisions of the County Land Use and Development Code.

2.1.3 Additional findings required for sites zoned Environmentally Sensitive Habitat Area Overlay - Toro Canyon (ESH-TCP).

- 1. All projects. In compliance with Subsection 35.28.100.E.3 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Land Use Permit the review authority shall first find that the proposed project complies with all applicable biological resource policies and development standards in the Toro Canyon Plan.*

As discussed in Attachment 5 of the Board Letter for the July 17, 2018 Board hearing, as well as in the Applicant's Appeal to the County Planning Commission (Attachment 5E of Attachment 9 to the July 2018 Board Agenda Letter) and the Applicant's Appeal to the Board of Supervisors (Attachment 3 to the July 2018 Board Agenda Letter), all incorporated herein by reference, the Board finds that the project complies with all applicable biological resources policies and development standards in the Comprehensive Plan, including the biological resources policies and development standards in the Toro Canyon Plan. Therefore, this finding can be made.