

ATTACHMENT 1: FINDINGS FOR DENIAL

1.0 CEQA FINDINGS

The Board of Supervisors finds that CEQA does not apply to the denial of the appeal pursuant to CEQA Guidelines Section 15270 [Projects Which are Disapproved]. See Attachment 2, CEQA Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS

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 Land Use and Development Code and policies of the County Comprehensive Plan. As proposed, the following required findings in the County LUDC cannot be made. Only findings that cannot be made are discussed below:

2.1 LAND USE PERMIT FINDINGS

A. Findings required for all Land Use Permits. In compliance with Subsection 35.82.110.E.1.1.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 make all of the following findings:

1. The proposed development conforms to the applicable provisions of the Comprehensive Plan, including any applicable community or area plan.

As discussed in the Appeal Issues section of the Board Agenda Letter dated November 8, 2016 as well as Sections 6.1, 6.2, 6.3, and 6.4 of the County Planning Commission staff report dated July 1, 2016 (included as Attachment 5 to this Board Agenda Letter) both incorporated herein by reference, the proposed project is not consistent with the applicable policies of the Comprehensive Plan, including the Toro Canyon Community Plan. The proposed project does not conform to the following policies and development standards of the Toro Canyon Community Plan: Policy BIO-TC-1, DevStd BIO-TC-1.4, Policy BIO-TC-7, DevStd BIO-TC-7.4, DevStd BIO-TC-7.8, Policy BIO-TC-11, DevStd BIO-TC-12.1, Policy BIO-TC-13, DevStd BIO-TC-13.1, and DevStd BIO-TC-13.2. Therefore, this required finding cannot be made and the proposed development associated with Land Use Permit 16LUP-00000-00109 cannot be approved.

2. 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).

As discussed in the Appeal Issues section of the Board Agenda Letter dated November 8, 2016 as well as Sections 5.3, 6.1, and 6.4 of the County Planning Commission staff report dated July 1, 2016 (included as Attachment 5 to this Board Agenda Letter), both incorporated herein by reference, the subject property is not in compliance with all laws, regulations, and rules pertaining to permitting requirements in the LUDC since the property owner began construction of the secondary access road without obtaining the necessary permits from Planning & Development. As a result, building and zoning violation cases (Case Nos. 15BDV-00000-00080 and 15ZEV-00000-00244) were opened in June 2015. To date, these cases are still active violations. Therefore, this required finding cannot be made and the proposed development associated with Land Use Permit 16LUP-00000-00109 cannot be approved.

B. 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 the Appeal Issues section of the Board Agenda Letter dated November 8, 2016 as well as Sections 6.1, 6.2, 6.3, and 6.4 of the County Planning Commission staff report dated July 1, 2016 (included as Attachment 5 to this Board Agenda Letter) both incorporated herein by reference, the proposed project does not comply with the following biological resource policies and development standards in the Toro Canyon Community Plan: Policy BIO-TC-1, DevStd BIO-TC-1.4, Policy BIO-TC-7, DevStd BIO-TC-7.4, DevStd BIO-TC-7.8, Policy BIO-TC-11, DevStd BIO-TC-12.1, Policy BIO-TC-13, DevStd BIO-TC-13.1, and DevStd BIO-TC-13.2. Therefore, this required finding cannot be made and the proposed development associated with Land Use Permit 16LUP-00000-00109 cannot be approved.