



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Planning and Development  
**Department No.:** 053  
**For Agenda Of:** December 13, 2022  
**Placement:** Departmental  
**Estimated Time:** 1.25 hours  
**Continued Item:** No  
**If Yes, date from:** N/A  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Lisa Plowman, Planning and Development (805)568-2086  
Director  
Contact Info: Travis Seawards, Deputy Director, Planning and Development  
(805)568-2518  
**SUBJECT:** Consider the Summerland Citizen's Association Appeal, Case No. 22APL-000000-00022, of the Planning Commission Approval of the Fuel Depot/The Point Signs Project, Case Nos. 21SCC-00000-00006 and 21BAR-00000-00146, First Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

On December 13, 2022, staff recommends that your Board take the following actions to deny the appeal and uphold the County Planning Commission's approval of the project:

- a. Deny the appeal, Case No. 22APL-00000-00022;
- b. Make the required findings for approval of the project, Case No. 21SCC-00000-00006, including CEQA findings;
- c. Determine the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15311 (Accessory Structures);
- d. Grant *de novo* approval of the project, Case No. 21SCC-00000-00006, subject to the conditions of approval; and
- e. Grant *de novo* Preliminary and Final design approval of Case No. 22BAR-00000-00062.

**Summary Text:**

The project before your Board is a proposal to install two wall signs at an existing gas station and convenience store that received *de novo* approval by the Planning Commission on June 1, 2022. The first sign will be located on the north side of the convenience store (facing Lillie Avenue), and will read "The

Point Market” (Sign A) and measures 14.2 square feet. The second sign will be located on the south side of the convenience store (facing Highway 101) and will read “Fuel Depot” (Sign B) and measure 42.5 square feet. Both signs will be externally illuminated with downward facing gooseneck light fixtures with a maximum of 10 LED watts each (100 watts incandescent equivalent). Sign A will have two light fixtures and Sign B will have four light fixtures.

On June 14, 2022, Marc Chytilo, on behalf of Summerland Citizens Association, filed a timely appeal of the Planning Commission *de novo* approval. The specific grounds for the appeal are as follows:

- The proposed signage is not in compliance with applicable sign standards. Specifically, the appellant asserts that the rear Fuel Depot Sign (Sign B) is not located on a street frontage in accordance with sign standards for the Summerland Community area (Article I, Division 9 Special Area Requirements Section 35-43 and the Article I definition of street frontage in Section 35-3).
- The Planning Commission’s findings of approval cannot be met to approve a Sign Certificate of Conformance (SCC) because the project does not comply with LUDC Chapter 35.38 Sign Standards and Article II Section 35-138.A., Special Sign Standards of Summerland.
- The appellant asserts that there are no SCCs on record for 12 other existing signs on the parcel. Therefore, the appellant asserts that findings cannot be met that the property is in compliance with Article II Section 35-138.
- The appellant asserts that the proposed rear Fuel Depot sign (Sign B) is unlike any other existing or permitted signs in the area because it faces only Highway 101 frontage and will include 24-hour lighting.

Staff reviewed the appeal issues and finds they are without merit. The proposed project is consistent with Articles I and II, and the information included in the administrative record, including this Board Letter, supports *de novo* approval of the proposed project.

**Background:**

The gas station and store have operated (under Shell Oil and Exxon Mobil brands) with permitted signage in various forms (including pole signs and detached trademark signs) on the property since 1963.

On July 14, 2021, the applicant, Rose T Robertson Revocable Trust 5/26/88, submitted an application for a Sign Certificate of Conformance (SCC), Case No. 21SCC-00000-00006. The project initially included a wall sign, chimney sign, and pole sign. During the project application review process, the applicant subsequently made several project revisions and omitted the proposed pole sign. On November 5, 2021, SBAR granted Preliminary and Final Approval of the wall and chimney signs. Subsequently, the SCC was approved on January 3, 2022. On January 11, 2022, a resident filed a timely appeal of the SCC asserting that the Fuel Depot chimney sign was misidentified as a wall sign, and that the signs would cause potential increases in noise, traffic and crime.

After the appellant’s appeal was filed, the applicant revised the project to replace the chimney sign with a wall sign (the now proposed Sign B “Fuel Depot” sign), which is proposed to be located on the south, rear-facing wall of the gas station facing Highway 101. SBAR subsequently reviewed the revised project on April 15, 2022, and denied the design approval based on a determination that Wall Sign B was

inconsistent with sign regulations. The applicant filed a timely appeal of the SBAR denial on April 25, 2022.

On June 1, 2022, the Planning Commission held a hearing on both the applicant appeal of the SBAR denial and the appellant's appeal. The Planning Commission upheld the applicant's appeal, and granted *de novo* approval of the project and Preliminary and Final design review of case 22BAR-00000-00062.

### **Proposed Project**

The project is a request for approval of an SCC to allow installation of two wall signs (Sign A – The Point Market, Sign B – Fuel Depot), and associated light fixtures. The following structures exist on the parcel currently; convenience store (The Point Market), fuel dispensers, canopy, and trash enclosures. Wall sign 'A' measures 14.2 square feet and will be externally illuminated by two gooseneck light fixtures, with a maximum wattage of 10 LED watts per fixture. Wall sign 'A' will be constructed of non-reflective aluminum pin letters, and affixed to the front of the existing convenience store. Wall sign 'B' measures 42.5 square feet and will be externally illuminated by four gooseneck fixtures, with a maximum wattage of 10 LED watts per fixture. Wall sign 'B' will be constructed of a Medium Density Overlay (MDL) panel (i.e. weather-resistant plywood), painted with matte colors, and affixed to the rear of the existing convenience store.

### **Appeal Issues and Staff Responses**

The appeal application (Attachment 4) contains a letter, dated June 13, 2022, that outlines the appeal issues. The appeal issues and staff's responses are provided below.

#### Appeal Issue No. 1: Rear Sign (Sign B) not located on street frontage

The appellant asserts that the wall sign proposed on the rear of the convenience store does not front on a street. The appellant asserts that the Sign B will not be located on a street frontage because the property does not have direct access to or from Highway 101. Therefore the appellant asserts that the sign would not be permitted in accordance with Article I, Section 35-43.2.a., which limits wall signs to street frontages.

#### Staff Response to Appeal Issue No. 1

The County's Sign Regulations do not prohibit the proposed wall sign in the proposed location on the rear of the building. The project site is located in the coastal zone, and wall signage is regulated in two areas of the ordinance, Article I of Chapter 35 of the County Code, and Section 35-138 of Article II.

- Article I, Chapter 35 applicable regulations:
  - Except where regulated by Article II, Section 35-138, signs and advertising structures are regulated by Article I of Chapter 35 of the County Code. Article I defines street frontage as *"The footage of the property that abuts an improved street or streets open to public use to which the property has access."* (County Code Article I, Section 35-3.)
- Section 35-138, Article II applicable regulations:
  - Section 35-138 of Article II allows "one or more wall signs on each street frontage..."

The proposed rear wall Sign B – "Fuel Depot" faces the Highway 101 Freeway, which is a public street, and therefore the project meets the applicable Article II, Section 35-138 regulations. As for applicable

requirements in Article I, there is no indication that Article I intended to prohibit wall signs facing Highway 101 or any other highway open to public use in the County. Article I does not define “street”, nor does it use the term “highway”. Further, the stated purpose of the Article I Sign Regulations is to “harmonize by regulations the County’s interest in promoting public safety, health, and welfare with the legitimate private purpose of signs; that is, the identification and promotion of the seller to the buyer.” (County Code Article I, Section 35-2.) In support of this argument, other businesses with frontage along Highway 101 have wall signs visible from the highway, including Red Kettle Coffee, Bikini Factory, and the Summerland Inn.

In summary, P&D staff has interpreted these provisions together to conclude that Article I and Article II do not prohibit a wall sign on a property with frontage on Highway 101, and that the County’s Sign Regulations are intended to authorize wall signs on property facing a public right-of-way open to public use, to which the property has access to the travelling public for purposes of identifying and promoting its business.

Appeal Issue No. 2: Findings cannot be made for approval of an SCC

The appellant asserts that the Planning Commission’s Findings for Approval lack the finding required to approve a Sign Certificate of Compliance that “the proposed signage is in compliance with Chapter 35.38 (Sign Standards)”, which for Summerland include CZO Section 35-138

Staff Response to Appeal Issue No. 2

The appellant references Section 35.38 of the County Land Use & Development Code (LUDC); however, the LUDC does not apply to this project due to its location in the coastal zone. There do not appear to any similarly numbered sections in Article II.

As discussed in the response to Appeal Issue No. 1, there is no indication that the code intended to prohibit wall signs facing the freeway, and the County’s Sign Regulations are intended to authorize wall signs on property facing a public right-of-way open to public use, to which the property has access to the travelling public for purposes of identifying and promoting its business. Therefore, findings can be made in accordance with Article I Section 35-9.

Appeal Issue No. 3: Parcel is currently in violation of Article II, Sections 35.38 and 35-138

The appellant asserts that 12 signs currently exist on the parcel and there are no SCCs on record to establish the use for those signs. Therefore, the appellant asserts that the property is not in compliance with all laws including the Special Sign Standards for Summerland (Article II Section 35-138.A), and that findings cannot be made that the subject property is in compliance with all laws, regulations, and rules (including LUDC 35.82.170.F. findings required for approval of Sign Certificates of Conformance).

Staff Response to Issue No. 3

As noted above, the LUDC is not applicable to this project due to its location in the coastal zone; the Article II Coastal Zoning Ordinance and Article I Sign Regulations are the governing ordinances pertaining to this project.

The appellant has provided no evidence of the 12 existing signs on the parcel that lack the requisite Sign Certificate of Conformance. Article I Section 35.38.030.E specifically exempts signs located entirely within structures (i.e. visible through windows), and no SCC is required for these types of signs. As

described in the background section, the gas station and convenience store have been permitted and in operation in various forms since at least 1963, and several permits have been approved on the property that included various sign approvals, included pole signs, walls signs, and roof signs. There is an existing temporary price sign advertising the price of gas, as required by state law (Section 13531 of the California Business and Professions Code), while the applicant is in the process of obtaining the necessary permit approval for a permanent gas price sign. Finally, no documented violations exist on the parcel and so the finding that the subject property is in compliance with all laws, rules and regulations can be made.

Appeal Issue No. 4: The proposed signs are not in conformance with the existing community

The appellant asserts that the Design Review Findings require that the proposed signs are in conformance with the existing community, and other existing or permitted structures in the surrounding area. The appellant asserts that the proposed rear Fuel Depot sign (Sign B) is unlike any other existing or permitted signs in the area, in that it faces only the Highway 101 frontage, and will include 24-hour lighting. Other signs in the area such as Bikini Factory and Red Kettle Coffee are side-facing and unilluminated.

Staff Response to Appeal Issue No. 4

Several other nearby businesses have wall signs that are visible from Highway 101, including Sandpiper Liquors, Summerland Inn, The Nugget, Summerland Beach Café, Bikini Factory, and Red Kettle Coffee. While some of these signs are unilluminated, at least one (Sandpiper Liquors) is illuminated and faces the Highway and Ortega Hill Road. The ordinance does not distinguish whether interpretation of visibility from a street is side versus direct-facing. Furthermore, Article II Section 35-138.A.2.a allows for external illumination of wall signs with downward facing lights, with which the proposed Wall Sign B complies, with the provision that the source of illumination shall be extinguishable at closing time of business. Finally, there is no provision in Article II that prohibits 24-hour illumination of signage.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

Total costs for processing the appeal are approximately \$7,500.00 (30 hours of staff time). The costs for processing project appeals are partially offset by a fixed appeal fee. Funding for this project is budgeted in the Planning and Development Department's Permitting Budget Program as shown on page 387 of the County of Santa Barbara Fiscal Year (FY) 2022-23 adopted budget.

**Special Instructions:**

The Planning and Development Department shall publish a legal notice in the *Coastal View* at least 10 days prior to the hearing on December 13, 2022. The Planning and Development Department shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing to the attention of Planning and Development Department: Hearing Support.

**Attachments:**

1. Findings
2. Sign Certificate of Conformance
3. CEQA Exemption
4. Appeal Application and Letter, dated June 13, 2022
5. Project Plans
6. Planning Commission Action Letter, dated June 3, 2022
7. Planning Commission Staff Report, dated May 24, 2022

8. County Counsel Facilitation Report, dated September 16, 2022

**Authored by:**

Steve Conner, Planner, (805) 568-2081  
Development Review Division, Planning and Development Department

**CC:**