



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 &
Development
Department No.: 053
For Agenda Of: January 16, 2007
Placement: Set Hearing
Estimated Tme: 1.5 hours on 2/20/07
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department John Baker, Director 568-2085
Director(s)
Contact Info: Dianne Black, Assistant Director 568-2086

SUBJECT: Set Hearing for Appeal of ZA denial of Bella Vista Ranch Floor Area Ratio
Variance Request

County Counsel Concurrence

As to form: YesN

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

Set a hearing for February 20, 2007 to consider an appeal filed by the applicant (Case No. 06APL-00000-00041) of the County Zoning Administrator's October 23, 2006 denial of the request for a Variance to the Floor Area Ratio maximum for a residential dwelling (Case No. 05VAR-00000-00005) in the Summerland area of the First Supervisorial District, as follows:

1. Deny the appeal, thereby upholding the Zoning Administrator's decision;
2. Adopt the required findings for the project, including CEQA findings, in Attachment B;
3. Deny the Variance request.

Summary Text:

The subject property, Bella Vista Ranch, is a 19.73 acre agriculturally zoned rural parcel located at the eastern edge of the Summerland Community Plan area. As such, the parcel is subject to the requirements of the Summerland Community Plan Overlay of the Article II Zoning Ordinance. The maximum square footage for any residence within the Summerland Community Plan area, regardless of parcel size, is 8,000 net square feet. The existing single family residence located on the subject parcel, originally approved in 1999, and revised several times since, was permitted at 8,000 net square feet. The project was originally permitted with an uninhabitable understory or crawl space, upon which the single story residence was constructed. The applicant has requested a Variance to the floor area regulations to allow the conversion of the 10,910 square foot crawl space to a habitable basement, which

would result in a total floor area for the residence of 18,910 net square feet, more than double the maximum floor area permitted within the Summerland Community Plan area. Conversion of the understory to habitable basement would involve the installation of seven arched doors and seven arched windows in existing arched recesses. The new habitable basement would be used for private recreational activities and would include an art gallery, media room, billiard room, exercise room, lounge, children's play room, wine cellar, and two full bathrooms.

Staff has evaluated the project against County policies, including the Summerland Community Plan and Coastal Land Use Plan, and found it to be inconsistent. Policy VIS-S-5 of the Summerland Community Plan calls for the establishment of Floor Area Ratios for residential development to ensure that new development is compatible with the community's scale. Pursuant to this policy, the Floor Area Ratios were established in the Summerland Community Plan Overlay in the Article II Coastal Zoning Ordinance, and a maximum floor area of 8,000 square feet was set for parcels greater than 2.5 acres. The existing residence exclusive of the understory already reaches the 8,000 square foot floor area maximum. Conversion of the understory to habitable space would result in a residence that far exceeds the floor area maximum established to ensure compatibility of structures with the community's scale. Thus, the project would be inconsistent with this policy of the Summerland Community Plan.

Pursuant to the Summerland Community Plan, the maximum height for structures in the rural area of Summerland shall be 16 feet (Action VIS-S-3.1). This is an absolute standard for which exceptions cannot be made. The existing residence was permitted with an average height of 15 feet 10 inches. In determining this average height, all but one of the points at which the height of the structure was measured included the main floor of the residence only and did not include the understory. By converting the understory to a habitable basement, the height measurement would need to be recalculated to take into account the understory. Inclusion of the understory in the height measurement would result in the residence exceeding the 16 foot height maximum for structures in the rural area, since the residence already approaches the 16 foot height limit without the consideration of a basement with a nine foot plate height. As such, the project would be inconsistent with the height limit set forth in the Summerland Community Plan and is therefore not approvable.

The purpose and intent of a Variance request is to allow exceptions to ordinance standards when exceptional conditions on the property, such as size, shape, topography, location, etc., would lead to enforcement of the ordinance restricting development from that which is reasonable by imposing *practical difficulties* or *undue hardship* (emphasis added). The intent and purpose of the Summerland Community Plan Overlay Floor Area Ratio (FAR) is to restrict the size of the principal structure on a property to ensure compatibility of new development with the modest character of the Summerland Community. Existing development on the property includes approximately 11,350 square feet of residential development and accessory structures (e.g. guest house, pool cabana, garage, and accessory structure) as well as a 13,487 square foot horse stable (including two agricultural employee dwellings). Given the level of existing development, it is difficult to argue that the property is facing undue hardship or is not currently enjoying a reasonable level of use and development regardless of the FAR restriction. As such, the proposed project does not conform to the purpose and intent of the Variance provision.

There are four findings that must be made for approval of a Variance request. A detailed analysis of these findings is provided in Attachment B. Among these findings are: 1) that the strict application of the ordinance deprives the property owner of privileges enjoyed by other properties in the vicinity and under identical zoning classification; 2) that the granting of the Variance would not constitute a granting of special privileges inconsistent with limitations imposed on other properties in the vicinity and under

the same zoning; and 3) granting the variance will not be in conflict with the intent and purpose of the zoning ordinance and the Coastal Land Use Plan.

The subject property is located near agriculturally zoned parcels in the Toro Canyon Plan area that are not subject to the Summerland floor area limitations. The applicant argues that development on his parcel is unduly restricted above and beyond that of his Toro Canyon Plan area neighbors. The applicant refers to his Toro Canyon neighbors; these neighbors are, as the name implies, subject to the Toro Canyon Plan Overlay zone district, not the Summerland Community Plan Overlay; therefore, these properties are not subject to identical zoning classification. Nonetheless, with the exception of one 14,000 square foot residence approximately 2,500 feet north of the subject property, none of these agriculturally zoned Toro Canyon Plan properties have sought the level of residential development being proposed by the applicant, despite having no building size restrictions in place. Regardless, the subject parcel is located within the Summerland Community Plan area and therefore must abide by the rules and regulations applicable to that area.

There are at least four other properties in the Summerland Community Plan area, all within approximately $\frac{3}{4}$ of a mile from the subject property and one that borders the subject property, which have identical zoning and are subject to the same 8,000 square foot limitation as the subject parcel. All other properties in Summerland are even more restricted in terms of development FARs, as the maximum floor areas are proportional to lot size. For example, the maximum floor area for a one-acre lot would be 4,678 square feet. Existing residential development on the properties that have identical zoning as the subject property conforms to the FAR standard. Therefore, granting the Variance would allow the applicant to exceed a standard to which other properties in the vicinity under the same zoning have adhered. Granting the Variance would be a grant of special privilege and set a precedent for other development in the Summerland area that would be in direct conflict with the goals and policies of the Summerland Community Plan, BAR Guidelines for Summerland, and the Summerland Community Plan Overlay in Article II. The applicant acknowledges the fact that if a Variance is granted for his property, other properties in Summerland should be allowed variances to the floor area maximums as well. This would be antithetical to the purpose and intent of the Summerland Community Plan and erode the character of development in the Summerland community. As stated above, since the other properties in the Summerland Community Plan area have been developed in compliance with the floor area restrictions, approval of the Variance request would constitute the granting of special privileges above and beyond those enjoyed by other properties in the vicinity and under identical zoning in conflict with the required Variance findings. In addition, there is no special circumstance that deprives the property of privileges enjoyed by other properties in the vicinity under identical zoning. Thus, the findings for approval of the Variance could not be made and the Zoning Administrator concurred with staff's recommendation and denied the Variance request.

Background:

The existing single family dwelling (SFD) and associated residential accessory structures on the property were permitted in 1999. The residential structures have since undergone several minor revisions, but remain similar to their originally permitted size and configuration. In addition to the SFD, other permitted development on the property includes an attached garage of 750 square feet, pool house of 800 square feet, guesthouse of 800 square feet, accessory building of 1,000 square feet and horse stables of 13,487 square feet (including two agricultural employee dwellings).

Performance Measure:

N/A

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

The fee for processing an appeal is \$443 per the current Planning and Development Department fee schedule adopted by the Board of Supervisors, effective January 9, 2006. The remaining cost of processing this appeal is budgeted in the Permitting and Compliance program of the Development Review South Division on page D-290 of the Fiscal Year 2006/07 adopted budget. Estimated staff time to process this appeal is approximately 20 hours, for a projected cost of \$2,300.

Staffing Impacts:

Legal Positions:

N/A

FTEs:

N/A

Special Instructions:

The Clerk of the Board shall public a legal notice at least 10 days prior to the hearing on February 20, 2007. The notice shall appear in the Santa Barbara News Press. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the mailed notice are attached. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention Cintia Mendoza.

Attachments:

- Attachment A: Applicant Appeal
- Attachment B: Findings
- Attachment C: ZA Action Letter
- Attachment D: ZA Staff Report
- Attachment E: Public comment letters from ZA Hearing

Authored by: Alex Tuttle, Planner 884-6844

cc:

ATTACHMENT B: FINDINGS

1.0 CEQA FINDINGS

Pursuant to Section 15270 of the Guidelines for the Implementation of the California Environmental Quality Act, CEQA does not apply to projects which a public agency disapproves.

2.0 ADMINISTRATIVE FINDINGS

2.1 Variance Findings

Pursuant to Section 35-173.6, a Variance shall only be approved if all of the following findings are made:

2.1.1 *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 subject parcel is zoned AG-I-20 and is located in the Summerland Community Plan area; therefore it is subject to the ordinance requirements of the Summerland Community Plan Overlay (Section 35-191 of Article II). The Summerland Community Plan boundaries define the vicinity for which this project is being considered. There are at least four other parcels in the Summerland Community Plan area within $\frac{3}{4}$ of a mile from the project site (one of which directly borders the subject property) with identical zoning as the subject parcel. These other parcels must abide by the same limitations that are applied to the subject parcel, including a maximum allowable floor area of 8,000 square feet. Residential development on these other properties currently conforms to this standard. The existing residence on the subject parcel is already 8,000 square feet. Other development on the project site includes an attached garage of 750 square feet, pool house of 800 square feet, guest house of 800 square feet, accessory structure of 1,000 square feet, and horse stable/employee residences totaling 13,487 square feet. Other identically zoned parcels can also apply for and enjoy similar accessory structures.

The parcel is located in close proximity to other agriculturally zoned parcels in the Toro Canyon Community Plan area that are not subject to the same floor area restrictions. However, these other properties do not have identical zoning classifications since they do not have the Summerland Community Plan Overlay placed on them. The level, open, 20-acre subject property does not have special circumstances related to size, shape, topography, etc. such that strict application of the zoning ordinance would deprive it of enjoying the opportunities provided to other agriculturally zoned parcels in the Summerland Community Plan area; there is already extensive development on the property. Therefore, the property is not deprived of privileges enjoyed by other properties in the vicinity and under identical zoning classification and this finding cannot be made.

2.1.2 *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 discussed above, there are at least four other properties in the vicinity of the project site within the Summerland Community Plan area with identical zone districts which are currently limited by the floor area ratio limitations. Granting the variance to exceed the maximum allowable floor area

by 10,910 square feet would grant a special privilege to this property that is not enjoyed by other identically zoned properties in the vicinity. In fact, granting of this Variance request would set a precedent for other similarly sized parcels in the Summerland Community Plan Area antithetical to the goals and policies of the Summerland Community Plan. If the larger properties within the plan boundaries all begin to develop above the floor area maximums established for the Summerland community, then the modest scale of development within the community, and thus the character of the community itself, would be eroded and forever changed. Therefore, this finding cannot be made.

2.1.3 *That the granting of the Variance will not be in conflict with the intent and purpose of Article II or the adopted Santa Barbara County Coastal Land Use Plan.*

The purpose and intent of a Variance under Article II is to allow exceptions to the zoning ordinance standards when the literal interpretation of the ordinance would *impose practical difficulties or would cause undue hardship* (emphasis added) unnecessary to carry out the intent and purpose of the zoning ordinance. The existing residence already meets the maximum allowable floor area for a residence within the Summerland Community Plan area. With residential accessory structures, total residential development on the site is approximately 11,350 square feet (including pool house, garage, guest house, and accessory structure). This is a significant amount of residential development for an agriculturally zoned parcel in the rural area of Summerland. Enforcing the 8,000 square foot ordinance limitation on the SFD would not cause an undue hardship on the property, nor would it impose a practical difficulty to the property owner. Reasonable use and development is already enjoyed by the property owner. Article II also includes a Summerland Community Plan Overlay that applies floor area maximums on all residential development.

The Coastal Land Use Plan, of which the Summerland Community Plan is a part, also references the floor area limitations. Policy VIS-S-5 of the Summerland Community Plan states that the County shall amend the zoning ordinance to include Floor-to-Area Ratio requirements for all development in Summerland. The Summerland Community Plan also includes an action stating that the absolute maximum height for structures in the rural area shall be 16 feet. By converting the understory to habitable space, granting of the Variance would result in a structure which exceeds that height limit. Granting the Variance would be in direct conflict with the intent and purpose of Article II and the Summerland Community Plan.

More generally, two of the purposes of the Article II Zoning Ordinance are to “provide a definite plan for development so as to guide the future growth of the County within the Coastal Zone” and to “protect the character and stability (social and economic) of agricultural, residential, commercial, and industrial uses.” The Summerland Community Plan Overlay within Article II was included to guide development in the Summerland community to ensure development is compatible with the modest scale and character of the community. The proposed project would result in a residential structure more than double the maximum size established for residential dwellings within the Summerland community. It would be incompatible with the scale and character of the community. As such, the project would be in conflict with the purpose and intent of the Summerland Overlay and Article II. Similarly, one of the purposes of the Coastal Land Use Plan is to allow for orderly and well-planned urban development. The Summerland Community Plan and implementing development standards, including height limits and floor area maximums, were developed to ensure orderly and well-planned development within this portion of the coast. The project would be in conflict with these goals and, if approved, would likely set a precedent for other large scale

development in the Summerland community beyond the scale and character envisioned by the Community Plan that would erode the character of development in that area. For these reasons, this finding cannot be made.

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

No conditions have been imposed by the County for this project since staff is recommending denial. Therefore, this finding does not apply.

2.2 Summerland Overlay Findings

2.2.1 *In addition to the findings that are required for approval of a development project (as development is defined in the Santa Barbara County Coastal Plan), as identified in each section of Division 11 - Permit Procedures of Article II, a finding shall also be made that the project meets all the applicable development standards included in the Summerland Community Plan of the Coastal Land Use Plan.*

One development standard, Action VIS-S-3.1, in the Summerland Community Plan states that the maximum height for structures within the rural area shall be 16 feet. This is an absolute maximum for which exceptions cannot be made. By converting the understory to habitable space, the proposed project would result in a height well in excess of this limit. Therefore, the project would not meet this standard and this finding cannot be made.