



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:** May 3, 2022  
**Placement:** Administrative: Set Hearing for May 17, 2022  
**Estimated Time:** 55 min. on May 17, 2022  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Lisa Plowman, Director, Planning and Development  
Director (805) 568-2086  
Contact Info: Travis Seawards, Deputy Director, Planning and Development  
(805) 568-2518  
**SUBJECT:** **Lacerte Appeal of the County Planning Commission Approval of the BMO, LLC Accessory Dwelling Unit, Case No. 22APL-000000-00002, 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 May 3, 2022, set a hearing for May 17, 2022, to consider the recommendations of staff regarding Case Nos. 22APL-00000-00002 and 21CDP-00000-00053, which consist of an appeal of a Coastal Development Permit to allow the construction of a new attached accessory dwelling unit.

On May 17, 2022 staff recommends that your Board take the following actions:

- a) Deny the appeal, Case No. 22APL-00000-00002;
- b) Make the required findings for approval of the project, Case No. 21CDP-00000-00053, including California Environmental Quality Act (CEQA) findings included as Attachment 1 to this Board Letter;
- c) Determine the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303(a) included as Attachment 3 to this Board Letter; and
- d) Grant *de novo* approval of the project, Case No. 21CDP-00000-00053, subject to the conditions of approval included as Attachment 2 to this Board Letter.

## **Summary Text:**

The subject property is located at 2305 Finney Street and is developed with an existing 1,638-square-foot single-family dwelling. The proposed project is a request for a Coastal Development Permit to allow the construction of a new second story 795-square-foot attached accessory dwelling unit (ADU) with a 142-square-foot deck. The proposed project is consistent with all applicable policy and ordinance requirements, including requirements for square footage, height, setbacks, and parking. Policy and ordinance consistency is discussed in detail in the Planning Commission staff report dated October 7, 2021 (Attachment 5), and the Planning Commission memo dated November 30, 2021 (Attachment 6). There are no violations open on the subject property.

Planning and Development (P&D) staff approved the Coastal Development Permit for the ADU on June 4, 2021. Staff's approval was appealed to the County Planning Commission, who heard the appeal on December 8, 2021, and voted 3:2 to deny the appeal. On December 15, 2021, the appellant submitted an appeal of the County Planning Commission's decision to deny the appeal.

### **A. Appeal Issues and Staff Responses**

The appeal application (Attachment 4) contains a letter detailing the issues raised in the appeal to your Board. These issues and staff's responses are summarized below.

#### **Appeal Issue 1: Finney Street and Parking**

The appellant asserts that there is inadequate access to the site and insufficient parking for the proposed development. The appellant also asserts that before the applicant sought approval of the ADU, a court order eliminated half of the parking historically relied upon by the applicant and its short-term renters for the single-family dwelling on the same parcel.

#### **Issue 1 Staff Response:**

On-site parking for the single-family dwelling is consistent with Article II Coastal Zoning Ordinance requirements, and the ordinance does not require additional parking for the ADU. As discussed in Section 6.1 of the Planning Commission staff report dated October 7, 2021 (Attachment 5), and the Planning Commission memo dated November 30, 2021 (Attachment 6), the proposed project meets the parking requirements for the Single-Family Residential Zone District (7-R-1). Single-family dwellings require two parking spaces, and there are two existing parking spaces in the driveway. Pursuant to Section 35-142.7 of Article II, additional parking spaces are only required for detached ADUs. Since this project is an attached ADU, no additional parking spaces are required, and the ADU does not reduce the number of parking spaces currently provided for the existing single-family dwelling.

In addition, the proposed project provides adequate parking without relying on the parking area referenced in the October 26, 2021 Judgment submitted by the appellant. The Judgment states that the applicant has no legal right to park in the access easement. The applicant does not propose to park in the access easement as part of this project, and no parking spaces are identified in this area on the proposed project plans. As stated above, the driveway of the single-family dwelling has the required two parking spaces for the dwelling and no additional parking spaces are required for the ADU.

Adequate access also exists to serve the proposed ADU. The proposed project is served by a private access easement recorded on September 29, 1989 (Attachment 7) for “ingress, egress, and underground private utilities” over the easterly 18 feet of the property to the north of the subject property. The October 26, 2021 Judgment submitted by the appellant confirms that the applicant has a right to use the access easement “for the express purposes of ingress, egress, and private underground utilities.” In addition, the Carpinteria/Summerland Fire Protection District reviewed the project plans, confirmed that access to the site is sufficient, and did not require road widening or other access improvements (email from Mike LoMonaco dated April 20, 2022 and Fire Department Condition Letter dated July 6, 2021 [Attachment-B]). The District issued a condition requirement that the ADU have a separate address from the primary dwelling and, after reviewing the project plans, did not have any conditions regarding access to the property as it meets all access requirements.

### **Appeal Issue 2: The Parcel is Heavily Marketed as a Vacation Rental**

The appellant states that the ADU will add to the applicant’s vacation rental options, which will result in parking issues.

### **Issue 2 Staff Response**

The ADU will not add to the applicant’s vacation rental options as it cannot be used for short term stays. Pursuant to Article II Section 35-142.8.1.d, an accessory dwelling unit must be rented out for a minimum of 30 consecutive days. Further, the applicant’s use of the existing single-family home, not the ADU, for vacation rental purposes is not prohibited in the Coastal Zone. Finally, as discussed in Appeal Issue 1, above, the proposed project complies with applicable parking requirements in the Coastal Zone for ADUs.

### **Appeal Issue 3: Permit Violations**

The appellant states that the existing single-family dwelling is not legal at its current square footage due to unpermitted additions, and that violations exist on the subject property consisting of stairs and a pathway cut into the bluff and a trail cut into the development exclusion area. They claim that the ADU is requested on the square footage that has never been permitted, and the size of the ADU that is allowed under the code is 527 square feet, or half of the square footage that existed prior to any unpermitted additions.

### **Staff Response**

The existing single-family dwelling is legal at its current size of 1,638 gross square feet, and the proposed ADU square footage meets ordinance requirements. The ADU is appropriately permitted at 795 gross square feet, which meets the requirement under Article II Section 35-142.7.9.a.1 that an ADU be no more than 50% of the size of the existing residence. As discussed in Section 5.3 of the Planning Commission staff report dated October 7, 2021 (Attachment 5), and the Planning Commission memo dated November 30, 2021 (Attachment 6), a Lot Line Adjustment, Rezone, and General Plan Amendment were processed for the subject property in 2003. Since the approved Lot Line Adjustment plans show the house in its current size and configuration, the structure is considered legal. Contrary to the appellant’s assertion, there are no outstanding Coastal Development Permit conditions requiring the receipt of building permits or any other additional permits. The Lot Line Adjustment (Case No. 05MPC-00000-00005) was finalized under a Final Map Clearance on April 22, 2005, and the County acknowledged that the project satisfied the conditions of Planning and Development prior to recordation of the map. Because the General Plan Amendment, Rezone, and Lot Line Adjustment were approved in 2003, the time for any appeal of these actions has passed.

Zoning Enforcement staff inspected the site in 2019 and 2020, and verified that there were no violations on the parcel at that time. A complaint (Case No. 19ZEV-00000-00145) was filed on April 24, 2019, asserting that a trail had been created without a permit to access the beach from the bluff. Zoning Enforcement staff conducted a site visit and determined that removal of sensitive vegetation had not occurred and that no new identifying structural elements had been installed to denote a trail or new beach access. This determination was further confirmed by review of historic and current aerial photos. Enforcement staff closed the case on May 9, 2019. There are currently no open zoning violation cases for this site.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

Total costs for processing the appeal are approximately \$10,200.00 (40 hours of staff time). The costs for processing appeals are partially offset by a General Fund subsidy in Planning and Development's adopted budget. Funding for processing this appeal is budgeted in the Planning and Development Department's Permitting Budget Program, as shown on page D-301 of the County of Santa Barbara Fiscal Year (FY) 2021-2022 adopted budget.

**Special Instructions:**

The Clerk of the Board shall publish a legal notice in the *Santa Barbara News-Press* at least 10 days prior to the hearing on May 3, 2022. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing as well as a copy of the notice and proof of publication to the Planning and Development Department, Hearing Support, Attention: Willow Brown.

**Attachments:**

1. Findings for Approval
2. Conditions of Approval
3. CEQA Exemption
4. Appeal Application
5. Planning Commission Staff Report
6. Planning Commission Memo
7. Access Easement
8. County Counsel Facilitation Report

**Authored by:**

Willow Brown, Planner, (805) 568-2040

Development Review Division, Planning and Development Department