

## **Attachment-4**

### **Article II Coastal Zoning Ordinance Inconsistency Analysis for Denial**

#### **Zoning Designation**

The subject 0.10-acre property is currently zoned REC (Recreation) and is proposed to be rezoned to 7-R-1 (Single-Family Residential, 7,000 square foot/.16-acre minimum lot size) under the requested Rezone. With regard to REC zoned parcels, Article II Section 35-89.1 states, *“The purpose of this district is to provide open space for various forms of outdoor recreation of either a public or private nature. The intent is to encourage outdoor recreational uses which will protect and enhance areas which have both active and passive recreation potential because of their beauty and natural features. Such development should offer recreational uses which compliment and are appropriate to the area because of these features.”* The property is coastal adjacent and therefore possesses aesthetic beauty associated with natural features consistent with the REC zone designation. Conversion of the property from Recreation to residential would be inconsistent with the intent of the zone district.

#### **Services**

Article II Coastal Zoning Ordinance Section 35-60.5 states, *“In compliance with Section 35-60.5 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit the review authority shall first find, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.”*

The subject property does not have adequate access. The northwestern corner of the lot touches the southeastern corner of the publically owned Wallace Avenue at a single point. A single point in space does not constitute adequate or legal access because the applicant could not practically construct a road to access the parcel using a single point. The segment of Wallace Avenue previously located immediately north of the lot was legally quit-claimed by the County to the railroad in the early 20th century through Ordinance 247. It is therefore held by the Railroad and the applicant has not established that he has an agreement in place with the Railroad to use the property for access. Similarly, the applicant does not possess an easement over or under the adjacent railroad-owned property for the purposes of extending the proposed sewer-line connection to the Summerland Sanitary District. In summary, adequate services are not available for the subject property and therefore the project is inconsistent with Article II Coastal Zoning Ordinance Section 35-60.5.

## **Setback and Parking Variance**

The project includes a request for a Variance from the parking and setback regulations to allow: a north setback of 2 feet 4 inches instead of the required 10 feet; an east setback of 8 feet instead of the required 10 feet; and, zero uncovered parking spaces instead of the required 2 uncovered parking spaces.

With regard to Variance requests, Article II, Section 35-173.2.2 (applicability) states,

*“Where, because of unusual circumstances applicable to the lot such as size, shape, topography, location or surroundings, the strict application of the zoning regulations to land, buildings and structures would deprive such property of privileges enjoyed by other property in the vicinity with identical zoning, variances may be granted except that:*

- a. In no case shall a variance be granted to permit a use or activity which is not otherwise permitted in the district in which the property is situated.*
- b. In no case shall a variance from the procedural regulations of this Article be granted.*
- c. In no case shall a variance from the required number of parking spaces be granted as provided in Section 35-76, Medium Density Student Residential, Section 35-77, High Density Student Residential, and Section 35-102A, Single Family Restricted Overlay District.”*

The proposed project requests a rezone from REC (Recreation) to 7-R-1 (Residential), a Local Coastal Program Amendment to change the land use designation of the property from Recreation/Open Space to Residential, and a Variance to reduce setbacks and to eliminate on-site parking instead of providing the 2 uncovered parking spaces required under the 7-R-1 zone district. As discussed in Section 2.1 and 2.2.1 above, the findings for the rezone and amendment cannot be made. Without the rezone, a residence cannot be constructed and a parking variance would therefore be unnecessary. In addition (as discussed below) the findings for a variance cannot be made.

The subject property is 0.10 acres in size, is located between a coastal bluff and UPRR tracks, and is proposed to be rezoned to 7-R-1. Residential properties zoned 7-R-1 are located approximately 0.3 miles to the northwest of the subject parcel. These residential lots are also located adjacent to a coastal bluff and adjacent to the UPRR tracks and therefore have the same site constraints as the subject lot. These residential lots range in size from 0.16 to 0.3 acres in size and are square or rectangular in shape. Therefore, they are similar in size to the subject 0.10 acre square/rectangle lot. These properties are also topographically similar to the subject lot.

Attachment-4

O'Neil Residence

Case #: 08GPA-00000-00007,  
08RZN-00000-00006, 12VAR-00000-00012,  
08CDH-00000-00040

Page 4-3

Variations have not been granted to these lots to reduce or eliminate parking and therefore development on these properties has been required to meet on-site parking standards in effect at the time of lot development. In addition, staff review of previously issued variations throughout Summerland did not yield documentation of variations to eliminate on-site parking on residential properties within the Summerland Community Plan area as a whole. Therefore, the property is not subject to special circumstances warranting elimination of all on-site parking and a variation to eliminate parking would be a grant of special privileges.

In addition, given a circumstance under which the project was brought into compliance with the 75 year bluff retreat setback of 27 feet (which the currently proposed project is not) an area of 1,485 square feet would remain available for development (not including a potential second story). The two parking spaces required by the ordinance would require an area of approximately 280 square feet, leaving approximately 1,205 square feet for development (not including a potential second story). Therefore, adequate area exists on-site to provide for both parking and a single family dwelling, similar to other properties in the vicinity. In summary, the application of zoning ordinance requirements would not deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification as the proposed zoning classification. Please refer to Attachment-1 (Findings of Denial) to the January 9, 2018 Board Letter for a full discussion of why the findings for approval of a variation pursuant to Article II Section 35-173.6 cannot be made.