

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



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

Agenda Number:

Prepared on: May 10, 2001
Department: P&D
Budget Unit: 053
Agenda Date: May 22, 2001
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TO: Board of Supervisors

FROM: John Patton
Director, Planning and Development

STAFF CONTACT: Winston Wright, Planner, Development Review South, 884-8055
June Pujo, Supervising Planner, Development Review South, 568-2056

SUBJECT: **Roni Capital, LLC Appeal of 99-CDP-188 H, Lancashire Demo Guesthouse, New Stable, Wall, & Pergola**

To consider the appeal of Mindy A. Wolfe, esq., on behalf of Roni Capital, LLC, of the Zoning Administrator's February 5, 2001 decision to approve with conditions the request of Terry Bartlett, esq., agent for Christopher and Alicia Lancashire, (Case No. 99-CDP-188 H; application filed September 15, 1999), for the demolition of an existing guesthouse and the construction of new stables, a wall, and a pergola in the 1.5-EX-1 Zone District under Article II, and to accept the environmental exemption (§ 15301(l)(4) and § 15303(e) of the State Guidelines for Implementation of CEQA). The application involves APN 063-220-022, a 2.91 acre parcel, located at 4385 Marina Drive in the Hope Ranch area, Second Supervisorial District.

Recommendation(s):

That the Board of Supervisors:

1. Adopt the required findings for the project specified in Attachment A the Zoning Administrator's Action Letter dated February 9, 2001, including California Environmental Quality Act (CEQA) findings.

2. Accept the CEQA exemption pursuant to Guidelines § 15301(l)(4) and 15303(e) and authorize the filing of a Notice of Exemption.
3. Deny the appeal, upholding the Zoning Administrator's action, and approve 99-CDP-188 H, subject to the conditions included in the Zoning Administrator Action Letter dated February 9, 2001.

Alignment with Board Strategic Plan: The recommendations are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion: At the February 5, 2001 Zoning Administrator hearing on this item the Zoning Administrator, Noel Langle, approved the project, 99-CDP-188 H, subject to conditions. On February 15, 2001, an appeal of the Zoning Administrator's decision was filed with the Clerk of the Board's office by Mindy A. Wolfe, Esq., on behalf of Roni Capital, LLC (a limited liability corporation represented by its managing member, William Harger). The reasons stated for appeal include: 1) development was approved within the 75 year bluff erosion setback contrary to Chapter 35, Article II, Section 35-67 of the Coastal Zoning Ordinance and without adequate justification; 2) accessory structures (garbage enclosure and paddocks) approved within the front yard setback; 3) the Notice of Exemption was approved even though a portion of the project (the pergola) lies within the 75 year bluff erosion setback and does not give credence to the possibility that cumulative impacts of the pergola and a subsequently approved swimming pool and deck could exacerbate erosion.

Alan Seltzer, Chief Deputy of County Counsel's Office, held a facilitation meeting on March 21, 2001. Please see the attached memo from Alan Seltzer, Chief Deputy of County Counsel's Office, for details of the facilitation meeting. A resolution for the appeal was not immediately reached, however, a framework for continued discussion was laid out. The applicant took some immediate steps to address the appellant's concerns regarding the appearance of the project site due to construction supplies, equipment, and debris. The applicant also initiated a temporary screening arrangement at his eastern property line between the appellant's and applicant's properties at the request of the appellant using tarps. At the end of the facilitation meeting, the appellant's attorneys and the applicants agreed that negotiations would continue and that setting a hearing date before your Board would be postponed a short while in order to provide a conducive environment for negotiations.

However, as over two months have elapsed without substantial progress by the affected parties towards the resolution of remaining issues, the applicant's legal representative, Terry Bartlett, asked that the item be docketed for hearing.

The following discussion is provided in response to the three issues raised in the appeal:
(Note: Please also see Appeal letter, filed by Mindy Wolfe, esq. and dated February 15, shown as Attachment C)

1. *Development was approved within the 75-year bluff erosion setback contrary to Chapter 35, Article II, Section 35-67 of the Coastal Zoning Ordinance and without adequate justification.*

The pergola, which is proposed within the 75-year bluff erosion setback, is a non-habitable structure consisting principally of walls and columns. A certified engineering geologist, James E. Fisher of CFG Consultants, prepared a geological report which identified the bluff erosion setback of 140 feet and made recommendations for future development. The report found that it would be feasible to construct non-habitable structures, such as pools and patios, within the 140-foot bluff erosion setback up to 50 feet within of the top of the sea cliff. The pergola is proposed to be located approximately 90 feet from the top of the sea cliff. Planning and Development's staff geologist, Brian Baca, reviewed the report and the project plans and concurred with the report's findings and recommendations. The Zoning Administrator considered the pergola a minor improvement that may be permitted under Section 35-67.3 of Article II;

Sec. 35-67. Bluff Development

3. Within the required blufftop setback, drought-tolerant vegetation shall be maintained. Grading, as may be required to establish proper drainage or to install landscaping, and minor improvements, i.e., patios and fences that do not impact bluff stability, may be permitted. Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and percolating water.

The permitting of minor improvements such as the swimming pool and pergola within the bluff erosion setback is consistent with historical County practice (i.e. 98-CDP-152 H which permitted a swimming pool, spa, and patio is one example).

2. *Accessory structures (garbage enclosure and paddocks) approved within the front yard setback.*

The front yard setback for a 1.5-EX-1 zoned parcel on a street having a right-of-way of 80 feet or more is 125 feet, such as the subject parcel. The proposed stables are setback 125 feet from Marina Drive, however associated paddocks encroach approximately 14 feet into this setback. These paddocks consist of split rail fences less than 6 feet in height. Adjacent to the stables, 5 feet to the north, a trash enclosure is also proposed. The trash enclosure consists of a 6 foot screening wall that is not attached to the stables. The Zoning Administrator considered the paddocks and the trash enclosure similar to the regulations of Article II governing fences and walls (Section 35-123). As long as these structures are not greater than 6 feet in height these structures would be exempt from a Coastal Development Permit under Section 35-123 of Article II, therefore the Zoning Administrator found they could be approved in this project.

3. *The Notice of Exemption was approved even though a portion of the project (the pergola) lies within the 75 year bluff erosion setback and does not give credence to the possibility that cumulative impacts of the pergola and the approved swimming pool and deck could*

exacerbating erosion. The “Notice of Exemption ignores evidence of unusual circumstances creating a reasonable possibility of a significant environmental impact.”

The 75 year bluff erosion setback was identified by a study and report prepared by a certified engineering geologist, James E. Fisher of CFG Consultants, in conformance with the methodology of the Coastal Commission’s adopted Statewide Interpretive Guidelines regarding “Geological Stability of Blufftop Development”, as referenced in the County of Santa Barbara Local Coastal Plan (1996). The 75 year bluff erosion setback was identified to be 140 feet from the top of the sea cliff. Within this report, the geologist found it feasible to construct non-habitable structures within 50 of the top of the sea cliff so long as the project was designed in a manner that did not exacerbate the bluff retreat. The swimming pool was designed with an impermeable plastic layer underneath its foundation to prevent leakage into the soil beneath it in the event that the concrete foundation cracked and the site had a master drainage plan engineered in a manner that prevented sheet flow from going over the bluff face. The staff geologist, Brian Baca, reviewed the geological report and the project plans for this site and agreed that the non-habitable structures proposed would not exacerbate bluff erosion.

The Notice of Exemption that was approved by the Zoning Administrator cites California Environmental Quality Act (CEQA) Guideline Sections 15301 (l)(4) which exempts the demolition of small structures and 15303 (e) which exempts the construction of accessory structures. The appellant’s attorney, Mindy Wolfe, asserted at the Zoning Administrator Hearing that the applicant was attempting to piecemeal the project by submitting a house and swimming pool for approval and then applying for the stables and pergola. Noel Langle, the Zoning Administrator, pointed out that the parcel in question, APN 063-220-022, was a residentially zoned property, 1.5-EX-1, and that it is not unusual for residential projects to be developed in phases. In addition, staff looked at the project as a whole during its review of the case and determined that the project’s scale as a whole did not preclude it from a CEQA exemption. The Zoning Administrator agreed with this finding.

Mandates and Service Levels:

The appeal was filed pursuant to Section 35-182.3 of Article II of Chapter 35 of the County Zoning Ordinances, which states that the decisions of the Zoning Administrator may be appealed to the Board of Supervisors within ten days after the Zoning Administrator’s action.

Pursuant to Government Code Sections 65355 and 65090, a notice shall be published in at least one newspaper of general circulation. Mailed notice required to property owners within 300 feet of the project, including the real property owners, project applicant and local agencies expected to provide essential services, shall be done at least ten days prior to the hearing (Government Code 65091).

Fiscal and Facilities Impacts:

No filing fee was required for this appeal because this project is appealable to the Coastal Commission (Section 35-182.3.1 of the Coastal Zoning Ordinance – Chapter 35, Article II).

Special Instructions:

The Clerk of the Board shall complete noticing for the project in the Santa Barbara News-Press **at least 10 days prior to the hearing** and shall complete the mailed notice for the project (mailing labels are attached).

The Clerk of the Board shall forward a copy of the Minute Order to Planning and Development, Hearing Support Section, Attn: Lesli Taylor

Planning & Development will prepare all final action letters and otherwise notify all concerned parties of the Board of Supervisor's final action.

Concurrence:

County Counsel

Attachments:

Zoning Administrator Action Letter, including California Environmental Quality Act (CEQA) Findings

Staff Report for 99-CDP-188 H

Notice of Exemption

Appeal to the Board of Supervisors dated February 15, 2001

Facilitation Report for Lancashire CDP Appeal prepared by Alan Seltzer, Assistant County Counsel, dated April 4, 2001