

**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:** 5/5/05  
**Department Name:** P&D  
**Department No.:** 053  
**Agenda Date:** 5/17/05  
**Placement:** Administrative  
**Estimate Time:** n/a (15 min. staff presentation on 6/7/05; 45 min. total)  
**Continued Item:** NO  
**Document File Name:** G:\GROUP\PERMITTING\CASE FILES\APL\2000S\05 CASES\05APL-00000-00006\BOS DEPTL.DOC

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**TO:** Board of Supervisors

**FROM:** Dianne Meester, Assistant Director

**STAFF CONTACT:** Anne Almy, Supervising Planner (568-2053)

**SUBJECT:** Van Der Kar Appeal of the Planning Commission's approval on appeal of the Fishman Guesthouse CDP [04CDP-00000-00099], 7025 Shepard Mesa Drive, Assessor Parcel Number 001-101-023, First Supervisorial District.

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**Recommendation:**

That the Board of Supervisors deny the Van Der Kar Appeal of the Planning Commission's March 23, 2005 *de novo* approval, on appeal, of the Fishman Guesthouse CDP [04CDP-00000-00099],

**Your Board's action should include the following:**

1. Adopt the required findings for the project, as specified in the Planning Commission action letter dated March 8, 2005, including CEQA findings;
2. Deny the appeal, upholding the Planning Commission's *de novo* approval of Coastal Development Permit 04CDP-00000-00099;
3. Grant *de novo* approval of the project subject to the conditions included in the Planning Commission's action letter.

**Alignment with Board Strategic Plan:**

The recommendation is primarily aligned with actions required by law or by routine business necessity.

## **Executive Summary and Discussion:**

### *Permitting History:*

Case No. 04CDP-00000-00099 for a new 800 square foot guesthouse was approved by Planning and Development on November 16, 2004 at the request of owner David Fishman. On November 29, 2004, the CDP was timely appealed by a neighbor, Mr. Scott Van Der Kar. The appeal [04APL-00000-00033] was heard by the Planning Commission on March 23, 2005 which acted by a 5-0 vote to deny the appeal and grant *de novo* approval of the CDP. On April 4, 2005, the Planning Commission's action was timely appealed to the Board of Supervisors.

### *Project Description:*

The project is a new detached 800 s.f. guesthouse with a 400 s.f. storage area below. No tree removal is required for the project. Grading will be less than 50 cubic yards. The required parking shall be provided the existing concrete driveway area, outside of all setbacks. Sanitary service for the guesthouse will be provided by the existing septic system and water service will be provided by the Carpinteria Valley Water District.

### *Appeal Issues and Discussion:*

#### **1. “Coastal Plan Policy 2-6 – improper and misleading septic system noticing”**

This issue does not pertain to the guest house on appeal.

Coastal plan policy 2-6 reads as follows:

*Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan. Where an affordable housing project is proposed pursuant to the Affordable Housing Overlay regulations, special needs housing or other affordable housing projects which include at least 50% of the total number of units for affordable housing or 30% of the total number of units affordable at the very low income level are to be served by entities that require can-and-will-serve letters, such projects shall be presumed to be consistent with the water and sewer service requirements of this policy if the project has, or is conditioned to obtain all necessary can-and-will-serve letters at the time of final map recordation, or if no map, prior to issuance of land use permits.*

On July 6, 2004, the Zoning Administrator approved a new septic system for the lot under 04CUP-00000-00022. Noticing was correctly done consistent with ordinance requirements. The appeal period of the approval ended unchallenged. EHS determined that the septic system was adequate to serve both the single family dwelling on the lot and the guest house.

**2. “Carpinteria-Summerland Fire Protection District letter of conditions – 150 foot access ways requirements not met on 04CDP-00000-00041.”**

This issue does not pertain to the guest house on appeal.

04CDP-00000-00041 was approved on July 6, 2004 and issued on July 20, 2004 permitting the construction of a substantial addition and remodel to an existing single family dwelling on the project site. Prior to occupancy clearance, all permit requirements, including those of the Carpinteria-Summerland Fire Protection District, will be met.

**3. “Coastal Act Policy 30241 – No specific setback/buffer width has been determined to be adequate.”**

Coastal Act Policy 30241 reads as follows:

*The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*

*(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban uses.*

*(b) By limiting conversions of agricultural lands around the periphery or urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*

*(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*

*(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*

*(e) By assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

*(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b) of this section, and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

The project site is located in Shepard’s Mesa, an existing developed rural neighborhood, immediately adjacent to actively productive agricultural land. The single family dwelling, currently under construction on the subject lot, lies between the proposed guest house and the property line shared by the applicant and appellant. The guest house is located well within the property and exceeds all ordinance setback requirements.

**4. “Coastal Plan Policy 4-4 – scale of the new 6,000 s.f. [sfd] project is out of conformance with the close proximity of neighbor’s 2,200 s.f. residence.”**

This issue does not pertain to the guest house on appeal.

**Mandates and Service Levels:**

Pursuant to Section 35-182.3 of Article II of Chapter 35 of the County Zoning Ordinances, the decisions of the Planning Commission may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such decision.

**Fiscal and Facilities Impacts:**

The costs for processing appeals of coastal development permits outside of the geographic appeals jurisdiction are typically provided through a fixed fee and funds in P&D’s adopted budget. Fees collected for appeals vary based on the location of the project and who files the appeal. The appeal was filed by a “non-applicant” and a fee of \$435 was collected. Planning and Development will offset costs beyond the \$435 appeal fee. The estimated cost of processing this appeal is approximately \$2,500.00 and is budgeted in Development Review South Division, in the Permitting and Compliance Program on page D-290 of Planning and Development’s 2004-2005 fiscal year budget.

**Special Instructions:**

Clerk of the Board shall forward a copy of the Minute Order to P&D, Hearing Support Section, Attn: Cintia Mendoza.

**Concurrence:** n/a

**Attachments:** Attachments were included with the Board Letter dated May 5, 2005.