



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

#6

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: June 3, 2014  
Placement: Departmental  
Estimated Time: 1 hour  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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TO: Board of Supervisors  
FROM: Department Glenn Russell, Ph.D., Director, 568-2085  
Director:  
Contact Info: Alice McCurdy, Deputy Director, 568-2518  
SUBJECT: **Hearing to Consider the Appeal (Case No. 14APL-00000-000013) of the Planning Commission's Denial of the Woolley Appeal (Case Nos. 14APL-00000-00001 & 13LUP-00000-00376)**

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County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

Consider case no. 14APL-00000-00013, filed May 8, 2014 by the appellant Everett Woody, agent for the property owners, Robert & Karina Woolley, of the County Planning Commission's May 7, 2014 *de novo* denial of the Woolley SFD Addition, Case No. 13LUP-00000-00376. Your Board has the option of affirming, reversing, or modifying the decision of the Planning Commission.

Staff recommends that your Board take the following actions:

1. Deny the appeal, Case No. 14APL-00000-00013;
2. Make the required findings for denial of the project, specified in Attachment 1 of this Board Letter, including CEQA findings;
3. Determine that denial of the project is exempt from CEQA pursuant to CEQA Guidelines Section 15270, specified in Attachment 2 of this Board Letter; and
4. Deny the project, Case No. 13LUP-00000-00376, thereby affirming *de novo* the decision of the Planning Commission.

**Summary Text:**

The project currently before the Board on appeal was originally reviewed and denied by the Planning Department on March 10, 2014 and subsequently appealed (case no. 14APL-00000-00001). At the May 7, 2014 County Planning Commission hearing, the Commission denied the appeal and denied *de novo* Land Use Permit 13LUP-00000-00376. The Commission's denial was based upon the project's inconsistency with the requirements of the Summerland Community Plan, including the Summerland BAR Guidelines, and non-compliance with the requirements of the County Land Use & Development Code (LUDC).

**Background:**

In 2005, the planner processing the application for the original home on this property wrote a memo to the BAR confirming that the maximum allowable floor area for the lot is 4,678 square feet. On September 30, 2013, P&D received an application for a Land Use Permit to allow the construction of a 2,239 square foot addition to the existing 4,435 square foot single-family dwelling on the subject lot. The agents for the property owner disagreed with the identified floor area limitation, and staff therefore met with them to discuss the methodology for calculating maximum allowable floor area as laid out in the Board of Architectural Review Guidelines for Summerland (Guidelines). On January 13, 2014, P&D staff summarized the discussions from that meeting in a memo to the appellants; the memo formally identified the County's methodology used to calculate the maximum allowable floor area for projects in Summerland.

On January 21, 2014, P&D received an appeal of staff's determination of the FAR methodology. Following phone conversations with the appellant discussing the most effective appeal path, on March 10, 2014, P&D staff sent a formal denial letter for the project, case no. 13LUP-00000-00376. With the applicant's concurrence, staff processed the January 21, 2014 appeal as an appeal of the Land Use Permit rather than the appeal of the determination of the FAR methodology. That appeal, case no. 14APL-00000-00001, was taken to the County Planning Commission on May 7, 2014, where it and the *de novo* review of case 13LUP-00000-00376 were unanimously denied by a 5-0 vote.

**Appellant Issues:**

The appellant, Everett Woody, agent for the property owners Robert and Karina Woolley, has forwarded his appeal to the Planning Commission on to your Board. The overarching argument of the appeal before the Board remains largely the same argument considered by the Commission, and pertains to the methodology of the FAR calculation and how to determine the maximum allowable size of a home on a specific lot. The Appellant submitted Exhibits along with the appeal application that identify and explain the original specific areas of "Dispute" within the appeal. The Appellant's original five Disputes are summarized into four Appeal Issues in the Planning Commission appeal staff report dated April 18, 2014. That staff report, along with all Attachments and Exhibits presented at the May 7, 2014 Planning Commission hearing, is included herein as Attachment 3 to this Board letter. All of the appeal issues centered around the appropriate method of determining the maximum size of a house for this lot in Summerland.

On May 12, 2014, P&D staff met with the appellants to discuss the project and the current appeal to the Board. At this meeting, the appellants stated orally an interest in amending their appeal application to include two new issues that relate to a technical and a procedural disagreement concerning the proceedings

of the May 7, 2014 Planning Commission Hearing. The original appeal issue and the two new issues are discussed below:

***Original Appeal Issues.*** *In the original appeal, the appellants assert disagreements with how the maximum allowable FAR for this specific project was calculated.*

The methodology for calculating the maximum allowable square footage is clearly laid out in staff's FAR Worksheet, provided as Attachment 4 to this Board letter. The FAR Worksheet is an adopted part of the Summerland Guidelines, which was adopted concurrently with the Summerland Community Plan and implementing ordinance amendments to Article II in 1992.

Within the Summerland Guidelines, lots over 12,000 square feet in size do not have a listed FAR. For these lots, the maximum allowable floor area is established as a base of 2,500 sf plus 5% of the lot area net, with a maximum allowable size of 8,000 sf., as demonstrated in staff's FAR Worksheet. In the Worksheet included as Attachment 4, the subject lot is shown at exactly 1-acre in [gross and net] area (43,560 square feet); it is considered a "large lot." For purposes of calculating the FAR using this Worksheet and pursuant to the Summerland Guidelines, the lot is exactly 1-acre in size because it contains no easements, encroachments or abandoned right-of-ways, so there are no "Minus adjustments". The calculations below reflect lines 3 and 4b from the FAR worksheet:

$$2,500 \text{ sf} + (5\% \times 43,560 \text{ sf}) = \text{maximum allowable square footage (lines 3 and 4b of worksheet)}$$

$$2,500 \text{ sf} + 2,178 \text{ sf} = 4,678 = \text{maximum allowable square footage (line 4b of worksheet)}$$

Because no part of the lowest finished floor over the entire building footprint is more than 18" above grade, and the proposed residential structure does not qualify for a basement credit, the proposed project is therefore eligible for the 5% understory "credit." The correct means by which to calculate the understory credit is shown on line 5 of the FAR Worksheet, labeled "Understory adjustment." The correct calculations on line 5 read as follows:

$$5\% \times 4,678 \text{ sf} = 234 \text{ sf}$$

and

$$4,678 \text{ sf} + 234 \text{ sf} = 4,912 \text{ sf}$$

As such, **4,912 s.f.** is the maximum allowable square footage for the subject 1-acre [net] lot with the "understory adjustment" included.

The appellant's completed FAR worksheet is included as Attachment 5 to this Board letter. During the Planning Commission hearing, it became evident from their testimony that the Appellant is claiming a 5% bonus for not qualifying as a basement. The idea of a 5% bonus for projects which do not include a basement is the concept of the Understory Adjustment. The correct calculation for an understory adjustment is shown above and in Attachment 4 to this Board letter. However, the Appellant's Worksheet calculations incorrectly add an extra 2,178 s.f. for a "basement credit" and 130 sf for "square footage over the allowable garage area". Firstly, the figure, 2,178 sf, actually represents 5% of the lot area and is not equivalent to a basement credit/free square footage as represented in the Appellant's Worksheet. Additionally, the project contains no "square footage over the allowable garage size". Therefore, the maximum adjusted floor area for this one acre lot is 4,912 square feet and not 6,983 square feet.

In summary, the Summerland Guidelines Worksheet is intended to clarify the use of the terms and the calculations that need to be performed in order to determine the maximum allowable residence size for a given lot. The Worksheet is also an adopted part of the Summerland Guidelines. Following complete testimony at their hearing, the Planning Commission recognized the usefulness of the Worksheet in this regard, and voted to deny the appeal. In the appeal to the Board, the Appellant claims that the Planning Commission failed to address the “Specific Code Language”. However, the Planning Commission’s recognition of the clarity provided by the worksheet is supported by the fact that the worksheet is part of the adopted Summerland Guidelines, and was prepared as an explicit guidance document for calculating maximum allowable floor area.

Finally, with respect to the issue of maximum allowable floor area, the Planning Commission staff report stated regarding the Summerland Community Plan update that *“The only change that would occur in the instant case would be the means by which NET floor area is calculated.”* However, under the updated Summerland Community Plan, the 5% “understory” credit for which the current project would be eligible (if the project otherwise conformed to the Summerland Guidelines) will be eliminated when the Summerland Community Plan update takes effect. The Plan update will take effect in the inland area on June 6, 2014.

**New Issue #1:** The appellant contends that at the May 7, 2014 Planning Commission hearing, staff incorrectly stated that the FAR Worksheet was included in both the Summerland BAR Guidelines and within the County LUDC.

**Staff Response:** The Worksheet in question is found in the Summerland BAR Guidelines, which are cited as an Action item within the Summerland Community Plan. The Guidelines and the Plan were both adopted by the Board at the same time (see VIS-S-5.2). At no point did staff indicate that the FAR Worksheet itself was included in the County LUDC. Regardless, the methodology in the Guidelines and the County LUDC are the same.

**New Issue #2:** The appellants object that they were not afforded an additional allotment of time to give a rebuttal before the Commission took action to deny the appeal and project.

**Staff Response:** The Appellant’s presentation occurred after staff’s presentation. Thus the Appellant had the opportunity to respond to staff’s presentation. After staff and the Appellant had made their respective presentations to the members of the Planning Commission, and after the Chair noted that there was no request for public comment, the members of the Commission commenced deliberation of the project. The Planning Commission Procedures Manual allows the Appellant to “rebut, answer questions, or clarify any contradictions raised by the public testimony”. Since no members of the public testified at the hearing, rebuttal was not necessary. The Chair indicated that if he had questions for the Appellants that he would call on them. The questions of the Commission were directed solely to staff; none of the Commissioners had follow-up questions for the Appellant. Since the Appellant presentation followed the staff presentation and since there was no public comment to rebut, this process followed for the hearing was appropriate.

### **Conclusion:**

The project currently before the Board on appeal has not changed from the project denied by the Planning Department on March 10, 2014 or by the County Planning Commission on May 7, 2014. No revisions or proposed alterations were presented at the May 7, 2014 County Planning Commission hearing when the Commission denied the appeal, case no. 14APL-00000-00001 and granted *de novo*

denial to Land Use Permit 13LUP-00000-00376. The appellant's interpretation of the Summerland BAR Guidelines deviates from over two decades of consistent implementation and use of the Guidelines, including the Summerland FAR Worksheet therein, to determine the maximum allowable floor area for projects in the Summerland Community Plan area.

Staff's recommended action for the Board is presented on page 1 of this Board letter.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

The costs for processing appeals are typically provided through a fixed appeal fee and funds in P&D's adopted budget. In regards to this appeal, the appellant paid an appeal fee of \$648.26. P&D will absorb the costs beyond that fee, estimated at approximately \$4,700.00. These funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-168 of the adopted 2013-2015 fiscal year budget.

**Special Instructions:**

The Clerk of the Board shall publish a legal notice at least ten days prior to the hearing on June 3, 2014. 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 were attached to the set hearing Board Letter. A Minute Order of the hearing and copy of the notice and proof of publication shall be returned to P&D, Attention: David Villalobos, Hearing Support.

Hearing Support and Planning & Development will prepare all final action letters and notify all interested parties of the Board of Supervisors final action.

**Attachments:**

1. Findings for Denial
2. Environmental Document: Notice of Exemption
3. County Planning Commission Staff Report, dated April 18, 2014
4. Staff's FAR worksheet
5. Appellant's FAR worksheet
6. BAR memo from Alice Daly, dated May 13, 2005

**Authored by:**

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