



PLANNING & DEVELOPMENT DEPARTMENT

LONG RANGE PLANNING DIVISION

TRANSMITTAL MEMO

DATE: May 13, 2011

TO: SunPAC Members

FROM: Holly Bradbury, Project Planner

cc: Jeremy Tittle, Executive Assistant, 1st District Office
Jeff Hunt, Director of Long Range Planning
June Pujo, Supervising Planner

SUBJECT: Summerland Community Plan (SCP) Update Project Components
(Revised Agenda, continued from May 10, 2011)

The Attachments noted below have been included as part of the meeting materials for the May 17, 2011 meeting (*continued from May 10, April 28, and April 6, 2011*)

1. **Meeting Agenda.** (*Revised May 17, 2011 Agenda attached to this memo*)
2. **Meeting Minutes.** (*May 10, 2011 Minutes are attached to this memo*)
3. **Draft Commercial Design Guidelines Parking Basement Description and Graphic.** Draft revised excerpts from pages 4-2 and 4-3.
4. **Draft Residential Design Guidelines Residential Basement Graphic.**
5. **Existing LUDC Modification and Variance Findings.**

You may also download materials at the following webpage:

<http://longrange.sbcountyplanning.org/planareas/summerland/sunPAC.php>

Additional Information:

Commercial and Mixed-Use Parking Basement: At Meeting #32 the SunPAC directed staff to return with Commercial Parking Basement language based on the 80% of existing and 66% of finished grade perimeter percentage concept previously developed¹ and including allowances for basements that partially comply. The SunPAC also requested a description of the methodology and an example.

Basement, Commercial or Mixed-Use Parking: A basement that is not counted towards a building's FAR when the finished floor directly above is 4 feet or less above the existing grade for a minimum of 80% of its perimeter, and a minimum of 66% of its finished grade perimeter.

¹ Please see the materials from the July 16, 2008 Meeting

A qualifying portion of parking basement may also be excluded; however the non-qualifying grade perimeter percentage that does not meet the required 80% of existing grade or 66% of finished grade perimeter is counted towards FAR. The non-qualifying percentage, or if both are non-qualifying the larger of the two percentages, is counted 100% towards the building's FAR.

Example Commercial Parking Basement Project:

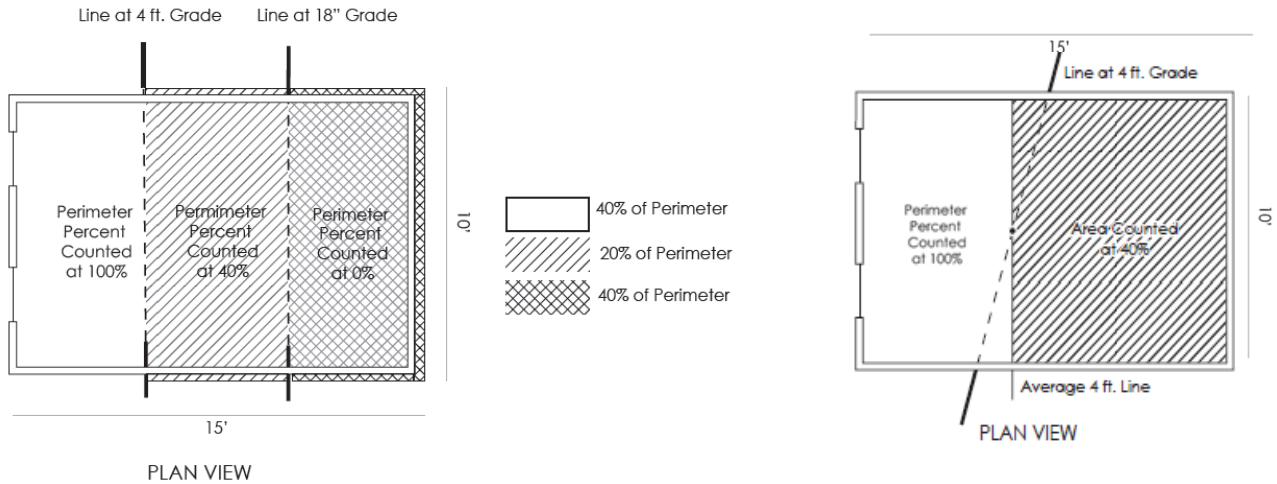
A 50'X20' parking basement of 1000 square feet has a perimeter of 140 linear feet. If the basement has 70 linear feet of 4 feet or less exposed for finished grade and 100 linear feet of 4 feet or less exposed of existing grade, then project would have following perimeter percentage requirements, percentage deviations, and FAR deductions:

Table 1: Sample Commercial Parking Basement Scenario of 1000 sq. ft.				
Requirement (140' total perimeter)	Example Project	Project Percent perimeter	Difference from Requirement	FAR deduction
66% of finished grade < 4' exposed= 92.4 linear feet	70 linear feet finished grade	50%	16%	160 s.f
80% of existing grade < 4' exposed=112 linear feet	100 linear feet existing grade	71%	9%	90 s.f

The additional 16% of the total square footage, or 160 square feet, would count toward the FAR since it is the greater percent difference from the 80% existing or 66% finished grade requirement. Examples of how the methodology would affect actual commercial projects will be shown at Meeting #33.

Other clean-up items and changes made at Meeting #32 are shown in ~~strikeout~~/underline in Attachment 3.

Residential Basement: At Meeting #32, the SunPAC directed staff to return with a comparison of allowing True Basements and Residential Basements within the same structure and comparing measurement as a percentage vs. area. The chart below compares four scenarios of 150 square foot basement, including the perimeter percent method and existing RDG method and illustrated below.



Perimeter % Method
 (100% of FAR grade over 4 feet, 40% of Res Basement, 0% True Basement)

Existing RDG Area Method
 (assumes 10x15 with Res. Basement 2/3 of area)

Table 2: Comparisons of FAR Exclusions Residential Basement Methodology (150 square feet)				
Type	Counted sf.	Res. Basement sf.	True Basement sf.	Total s.f Counted for FAR
Existing RDG Area Method	50 (50X100%)	40 (100X40%)	(not allowed)	90
"New" Area Method	50 (50X100%)	20 (50X40%)	0 (20X0%)	70
Option 1 Perimeter: 100%/40%	60 (60X100%)	12 (30X40%)	0 (60X0%)	72
Option2 Perimeter: 90%/30%	54 (60X90%)	9 (30X30%)	0 (60X0%)	63

Modification and Variance Findings

As previously discussed, approval of each MOD/VAR application would need to have the findings made by the discretionary decision maker and would be subject to CEQA. At Meeting #32 the SunPAC directed staff to return with additional Summerland specific findings for views, mass, and neighborhood compatibility. Please review the following language:

The height and/or FAR [Variance/Modification] will not result in an obstruction to public views, including but limited to views from any public road, public recreation or other area, to and along the coast;
the structure's massing will be compatible with adjacent structures; and

the project will be compatible with the neighborhood.

The existing Modification findings (Attachment 5) also include:

The project will be compatible with the neighborhood, and will not create an adverse impact to aesthetics, community character, or public views.

Please see Attachment 5 for a complete listing and existing Modification and Variance findings.

Public Road Right of Way Abandonment

At Meeting #31 the SunPAC requested a review and comparison of previously SunPAC review ROW policy with staff's current proposal. Proposed below draft SunPAC ROW policy² as well as staff's current draft. (Please note: analysis of non-maintained ROW's will be included in the project's environmental review.)

SunPAC Draft:

Policy CIRC S-18: Existing public rights-of-way shall not be abandoned or otherwise conveyed unless to a public agency for the purpose of education, recreation, trails, or safety. Abandonment of any portion of a public right-of way may occur only if such abandonment does not adversely affect public access, recreation, or parking and there is no impact to traffic circulation or access to private property. Any abandonment shall be conditioned to remain in public ownership in perpetuity and shall revert back to the County in the event that this condition is not met.

Staff Recommended Language:

Policy CIRC-S-15: *Priority public rights-of-way (ROW) are County owned, non-maintained road ROW which meet the following criteria:*

- *Contain existing trails*
- *Are feasible for future trails, non-motorized connectivity, or recreational parking*
- *Contains slopes less than 20%*
- *Are feasible to be developed at a width of at least 15 feet for fire truck/emergency access*
- *Are feasible as potential corridors for undergrounding of utilities*

Priority public rights-of-way (ROW) shall not be abandoned unless for the purpose of public education, public recreation, public trails, or public safety. Abandonment of any portion of a public right-of way may occur only if such abandonment does not adversely affect existing or potential area circulation, access, recreation, or parking and unless it conforms to the provisions of this community plan. Abandoned ROW shall not be used to increase subdivision density or potential.

ROW abandonment shall not occur unless community workshop(s) have been held, a noticed public process completed and community concerns are addressed to the maximum extent feasible.

² See the January 9, 2010 Meeting Materials
PLANNING AND DEVELOPMENT DEPARTMENT

Action CIRC-S-15.2: *The County shall develop a ROW abandonment program that 1) outlines the abandonment process, including public participation and title relinquishment practices; and 2) investigates the establishment of a funding program for future trail and non-motorized improvements in Summerland from abandoned ROW conveyance monies.*

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Notice of Public Meeting

Summerland Planning Advisory Committee (SunPAC)

(Continued from May 10, 2011)

Date: May 17, 2011

Time: 5:00 p.m.

Location: Summerland Presbyterian Church
2400 Lillie Avenue
Summerland, CA 93067

Attendees: SunPAC members: Robert (Robin) Donaldson, Suzanne Perkins, David (Tom) Evans, Betty Franklin, Paul Franz, David Hill, Mary Holzhauser, Nancy Kimsey, Wickson (Reeve) Woolpert; County staff (see contact information below); and public participants

Purpose/Discussion: Summerland Community Plan (SCP) Update Project Components *(Revised Agenda, continued from May 10, 2011)*

Agenda Item	Discussion Topic
CALL TO ORDER	
# 1	Pledge of Allegiance & Roll Call
#2	Public Comment Period <i>The Public Comment period is set aside to allow public testimony on items not on today's agenda. The time allocated to each speaker will be set at the discretion of the Chair.</i>
# 3	Administrative Items (Revised for the May 17, 2011 meeting) <ul style="list-style-type: none">• <i>May 10, 2011 SunPAC Meeting Minutes</i>
#4	Review of Remaining SCP Update Project Components (Action Item) <ul style="list-style-type: none">• <i>Commercial and Residential Basements</i>• <i>Modification and Variance Findings</i>• <i>Public Road Right of Way Abandonment</i>• <i>Urban Grid Map</i>
Adjourn	

Questions or comments about the Community Plan Update may be directed to Holly Bradbury at 805-568-3577 or hbradbur@co.santa-barbara.ca.us and further information may be obtained on the following web site: <http://countyofsb.org/plandev/comp/planareas/summerland>

Writings that are a public record under Government Code § 54957.5(a) and that relate to an agenda item of a regular meeting of the Planning Advisory Committee that are distributed to a majority of all of the members of the Planning Advisory Committee less than 72 hours prior to that meeting shall be available for public inspection at Santa Barbara County Long Range Planning Division 123 E. Anapamu St, Santa Barbara, CA, and also on the County's website at <http://longrange.sbcountyplanning.org/>

Attendance and participation by the public is invited and encouraged. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Hearing Support Staff (805) 568-2000. Notification at least 48 hours prior to the meeting will enable the Hearing Support Staff to make reasonable arrangements.

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SUMMERLAND Planning Advisory Committee (SunPAC)

May 10, 2011 Meeting #32 – Minutes
Summerland Presbyterian Church
2400 Lillie Avenue
Summerland, CA 93067

1. **Meeting Called to Order:** By Chair Donaldson at 5:15 pm.

Pledge of Allegiance and Roll Call:

SunPAC Members Present: Robert (Robin) Donaldson, David (Tom) Evans, Paul Franz, David Hill, Nancy Kimsey, Suzanne Perkins, and Wickson (Reeve) Woolpert.

SunPAC Members Absent: Mary Holzhauer, Betty Franklin.

County Staff Present:

Jeff Hunt, Director, Long Range Planning Division
June Pujo, Supervising Planner, Long Range Planning Division
Holly Bradbury, Planner, Long Range Planning Division

Welcome: Chair Donaldson welcomed participants.

2. **Public Comment:**
3. **Administrative Items:**

Meeting Minutes

November 30, 2010 SunPAC/SCA Meeting Minutes

ACTION: Member Hill moved, Member Franklin seconded, to approve November 30, 2010 SunPAC/SCA Meeting Minutes as amended. Motion carried by a vote of 5-0.

Yea: Donaldson, Evans, Franz, Hill, Kimsey, Woolpert

Nay: none

Abstain: Perkins

Absent Holzhauer, Franklin

April 28, 2011 SunPAC Meeting #31 Minutes

ACTION: Member Franz moved, Member Woolpert seconded, to approve the April 28, 2011 SunPAC Meeting #32 Minutes. Motion carried by a vote of 4-0.

Yea: Donaldson, Evans, Franz, Hill, Perkins, Woolpert

Nay: none

Abstain: Kimsey

Absent: Holzhauer, Franklin

ACTION: Member Franz moved, Member Hill seconded, to reconsider item the SunPAC motion on Item #4 at Meeting #32.

Yea: Donaldson, Evans, Franz, Hill, Kimsey Perkins, Woolpert.

Nay: none

Abstain: none

Absent Holzhauer, Franklin.

ACTION: Member Hill moved, Member Evans seconded, to direct staff to approve the original Item #4 Motion from meeting 32 with the exception of the staff recommendation for Modification and Variance Staff directed to return with new or additional findings for view protections, neighborhood compatibility, massing, distinguishing between urban grid vs. large lot and rural findings.

Motion carried by a vote of 4-3.

Yea: Evans, Franz, Hill, Woolpert

Nay: Perkins, Kimsey, Donaldson

Abstain: None

Absent Holzhauer, Franklin

Public Comment: Chip Wullbrandt and Robert Senn.

4. Agenda Item 7: Commercial Design Guidelines

ACTION: Member Perkins moved, Member Evans seconded, to endorse the staff recommendation to allow Residential FAR standards to be used for Single Family development in the C-1 Zone District.

Motion carried by a vote of 7-0.

Yea: Donaldson, Evans, Franz, Hill, Kimsey Perkins, Woolpert

Nay: Evans

Abstain: none

Absent Holzhauer, Franklin.

ACTION: Member Hill moved, Member Woolpert seconded, to direct staff to return with Commercial Parking Basement definition language and graphics including the 80 percent existing grade and 66% finished grade stipulations with a sliding scale to allow both types of basements within the same structure.

Motion carried by a vote of 7-0.

Yea: Donaldson, Evans Franz, Hill Kimsey, Perkins, Woolpert

Nay: none

Abstain: None

Absent: Holzhauer, Franklin

ACTION: Member Woolpert moved, Member Evans seconded to remove the 500 square feet parking exemption for every 6000 square feet of lot area for exclusively commercial parking.

Motion carried by a vote of 6-1.

Yea: Donaldson, Evans, Franz, Hill, Kimsey, Woolpert

Nay: Perkins

Abstain: None

Absent: Holzhauer, Franklin

ACTION: Member Hill moved, Member Woolpert seconded to add the 250 square foot parking space language from the Residential Design Guidelines to the mixed use parking exemption.

Motion carried by a vote of 7-0.

Yea: Donaldson, Evans, Franz, Hill, Kimsey, Perkins, Woolpert

Nay: None

Abstain: None

Absent: Holzhauer, Franklin

ACTION: Member Franz moved, Member Perkins seconded, to endorse the Preliminary Draft Summerland Commercial Design Guidelines (Attachment 6) as the project description for environmental review with the following exceptions:

Figures 3.3 and 3.4 to be amended consistent with SunPAC Direction

Staff to return with Commercial Parking Basement information consistent with motion.

Motion carried by a vote of 5-1.

Yea: Donaldson, Hill, Kimsey, Perkins, Woolpert

Nay: Evans

Abstain: Franz

Absent: Holzhauer, Franklin

Public Comment: Chip Wullbrandt and Robert Senn.

5. Agenda Item 8: Residential Design Guidelines

ACTION: Member Franz moved, Member Hill seconded, to include on page 4-5 of the Residential Design Guidelines (an implementing Zoning Ordinance Amendments) and allow parcels in the Existing Developed Rural Neighborhood (EDRN) to have a height of 25 feet with no roof pitch exception, consistent with the Summerland Urban Area.

Motion carried by a vote of 5-2.

Yea: Donaldson, Franz, Hill, Perkins, Woolpert

Nay: Evans, Kimsey,

Abstain: None

Absent: Franklin, Holzhauer

Public Comment: Chip Wullbrandt and Robert Senn

ACTION: Member Woolpert moved, Member Kimsey seconded, to apply to the original 1992 styles map to the style exclusions.

Motion carried by a vote of 7-0.

Yea: Donaldson, Franz, Hill, Perkins, Woolpert, Evans, Kimsey,

Nay: none

Abstain: none

Absent: Franklin, Holzhauer

ACTION: Member Perkins moved, Member Evans seconded, to prohibit white and encourage subdued colored fences in the Rural Area.

Motion carried by a vote of 5-0.

Yea: Franz, Hill, Perkins, Woolpert, Evans.

Nay: None

Abstain: Kimsey, Donaldson

Absent: Franklin, Holzhauer

ACTION: Member Hill moved, Member Perkins seconded, to endorse the Preliminary Draft Summerland Residential Design Guidelines (Attachment 7) as the project description for environmental review, the exception of the following:

Residential Basements: Direct staff to return with an comparison of the following for Residential Basements: perimeter percentage, area measurement, and allowing True and Residential Basement in the same space.

Modification and Variance: Staff to return with findings consistent with the motion.

Motion carried by a vote of 6-0.

Yea: Donaldson, Franz, Hill, Kimsey, Perkins, Woolpert

Nay: None

Abstain: Evans

Absent: Holzhauer, Franklin

Public Comment: Chip Wullbrandt and Robert Senn

Adjournment and continue remaining items to the next Meeting:

Yea: Donaldson, Evans Hill, Franz Kimsey, Perkins, Woolpert

Nay: None

Absent: Holzhauer, Franklin

Meeting adjourned at 9:40 p.m.

Next Meeting: May 17, 2011
Location TBD

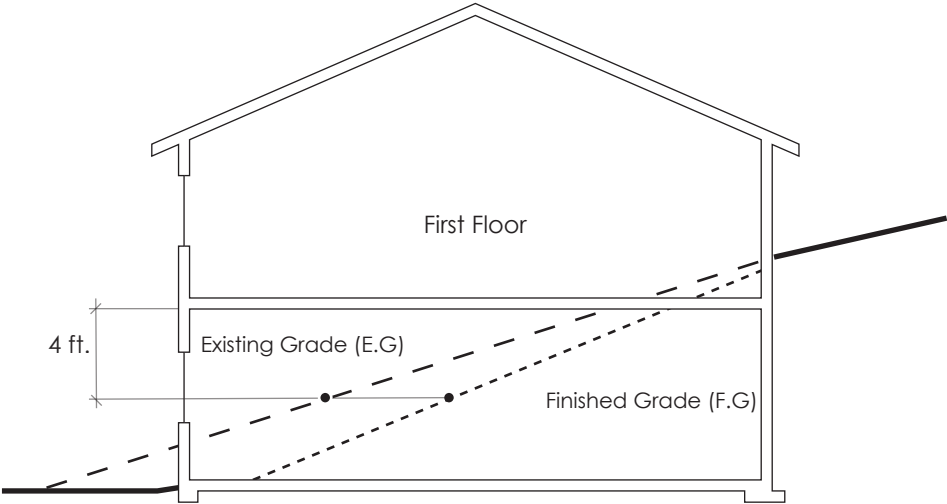
Minutes Approved:

Robert (Robin) Donaldson, Chair

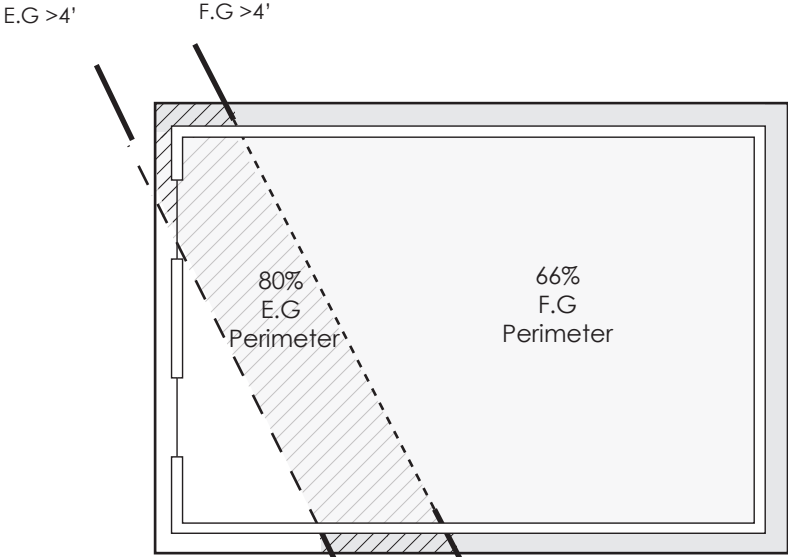
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Attachment 3: Draft Summerland Commercial Parking Basement Graphic



ELEVATION VIEW



PLAN VIEW

Attachment 3: Revised Commercial Design Guidelines Page 4-3

~~Basement, Commercial or Mixed-Use Parking—Summerland: A basement that is not counted towards a building's FAR when if the finished floor directly above is 4 feet or less above the pre-existing grade for a minimum of 80% of its perimeter elevations, and a minimum of 66% of its finished grade perimeter.~~

A qualifying portion of parking basement may also be excluded; however the non-qualifying grade perimeter percentage that does not meet the required 80% of existing grade or 66% of finished grade perimeter is counted towards FAR. The non-qualifying percentage or if both are non-qualifying the larger of the two percentages is counted 100% towards the building's FAR.

~~Basements, True—Summerland: True Basements are defined as any under-floor space below the interior floor directly above where the distance between the lower of the existing grade or finished grade around the entire perimeter of the structure and the elevation of the finished floor directly above does not exceed 18 inches at any point.~~

Far Allowance – Commercial And Mixed Use

The maximum allowable floor area ratio for development within the commercial corridor is **.27** for development that is completely commercial and **.33** for mixed use development. The following exclusions and additional requirements apply to development within the Summerland Commercial Corridor:

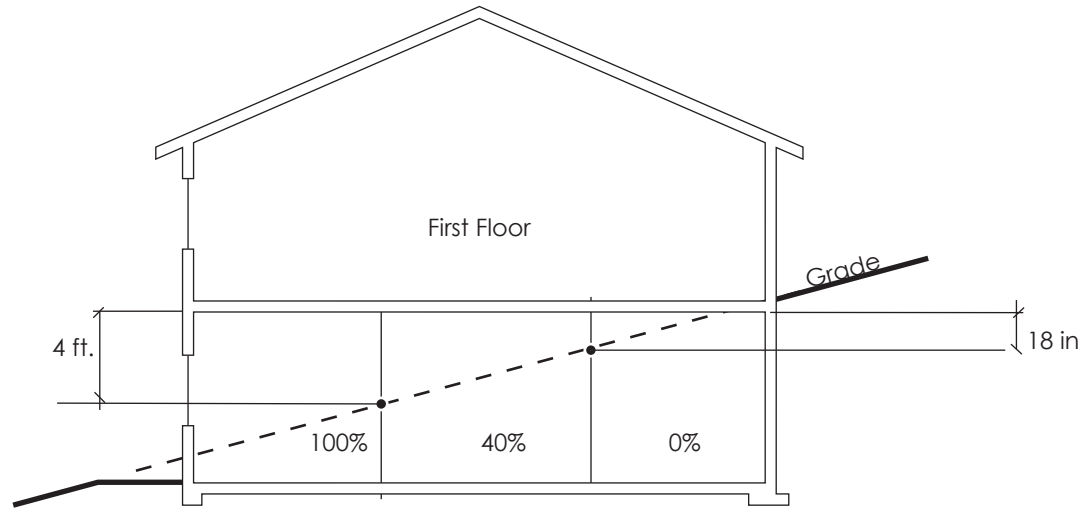
- Commercial or Mixed Use: Required parking or portions thereof within a Commercial or Mixed Use parking Basement an enclosed area may be is excluded from the building's FAR, as follows:
 - Required parking within an enclosed structure not meeting the definition of a Summerland Commercial basement can exclude up to 500 square feet per 6,000 square feet of lot area. Pre-existing lots of less than 6,000 square feet can exclude 500 square feet of garage space.
 - Parking located within a basement (see Figure 4.2—Basement Illustration);
- 100% of a Summerland true basement with no more than 18 inches above the finished grade of the building footprint to be used for storage-accessory and/or mechanical for a one-story structure; or 50% of a Summerland true basement with no more than 18 inches above the finished grade of the building footprint to be used for storage-accessory and/or mechanical for a two-story structure.

- Mixed Use: Required residential parking located within an enclosed structure not meeting the definition of a basement (~~refer to the following Height Section definitions~~) ~~may can~~ exclude 250 square feet per required space up to 500 square feet per 6,000 square feet of lot area. Pre-existing lots of less than 6,000 square feet may can exclude 500 square feet of garage space. The structure needs to be consistent with the intent of these design guidelines.

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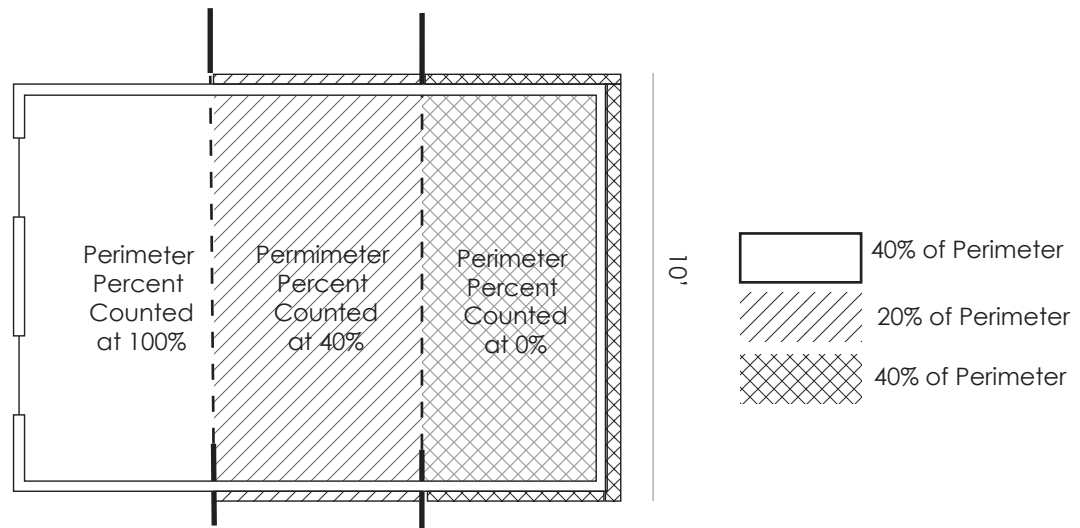
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Attachment 4: Draft Summerland Residential Basement Graphic



ELEVATION VIEW

Line at 4 ft. Grade Line at 18" Grade



PLAN VIEW

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35.82.130 - Modifications

- A. Purpose and intent.** The purpose and intent of this Section is to allow for minor modifications of certain zone standards, where, because of integrity of design, practical difficulties, topography, tree or habitat protection, or other similar site conditions, minor adjustments to the regulations, requirements, or standards would result in better project design, land use planning, and resource protection.
- B. Applicability.**
- 1. Allowed for permitted uses only.** The provisions of this Section shall apply to specific development proposals that are allowed in the zone in which the project is located which are not otherwise subject to Conditional Use Permit ([Section 35.82.060](#)) or Development Plan ([Section 35.82.080](#)) requirements.
 - 2. Activities or uses not otherwise allowed.** In no case shall a Modification be granted to allow an activity which is not otherwise allowed in the zone in which the property is situated, nor shall a Modification be granted which alters the procedural or timing requirements of this Development Code.
 - 3. Allowed Modifications.** Modifications may only be granted in conjunction with a specific development proposal and are limited to the following:
 - a. Maximum setback reduction of 20 percent.** The area of each front, side, or rear setback area shall not be reduced by more than 20 percent of the minimum setback area required in compliance with the applicable zone regulations.
 - b. Setback reductions for structures, except unenclosed, attached entryways or porches.** No setback reduction for structures, except for unenclosed, attached entryways or porches [see Subsection 3.c (Front setback reductions for unenclosed, attached entryways or porches) below] shall result in:
 - (1) Front.** A front setback depth, as measured from the right-of-way or easement line of a street, of less than 16.5 feet.
 - (2) Side.** A side setback width from property lines of less than three feet.
 - (3) Rear.** A rear setback depth from property lines of less than 15 feet.
 - c. Front setback reductions for unenclosed, attached entryways or porches.** No front setback reduction for an unenclosed, attached entryway or porch shall result in a front setback depth, as measured from the right-of-way or easement line of a street or driveway, of less than 10 feet.
 - d. Increase in maximum zone height limitations.** Up to a 10 percent increase in the maximum zone height limitations, excluding lots located within the Montecito Coastal Area.
 - e. Increase in the maximum Floor Area Ratio.** Up to a 10 percent increase in the maximum Floor Area Ratio (FAR) requirements for structures originally constructed before the adoption of the FAR regulations (e.g., if the FAR is 0.50,

the maximum modification would allow a FAR of 0.55), excluding lots located within the Montecito Coastal Area.

f. Reduction of parking spaces. A reduction in the required number and/or a modification in the design or location of parking spaces and loading zones may be allowed provided that in no case shall:

- (1) The number of required parking spaces be reduced in the High Density Student Residential (SR-H), Medium Density Student Residential (SR-M) or Single Family Restricted overlay (SF) zones.
- (2) The required number of bicycle parking spaces be reduced,
- (3) The number of spaces required for a residential second unit be reduced or allowed to be located within the required front setback area.
- (4) Any parking or screening requirement for a vehicle with more than two axles, a recreational vehicle or bus, a trailer, or other non-passenger vehicle be modified.
- (5) A reduction in the required number of parking spaces for development within the Summerland Community Plan Area be allowed that results in an increase in on-street parking.

4. Prohibited Modifications. In no case shall a Modification be granted for a reduction in buffer, landscape, open space, or other requirements of this Development Code, except as identified above.

C. Contents of application. An application for a Modification shall be submitted in compliance with [Chapter 35.80 \(Permit Application Filing and Processing\)](#).

D. Processing.

1. After receipt of Modification application, the Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
2. The project shall be subject to the provisions of [Section 35.82.070 \(Design Review\)](#), and shall be scheduled to be heard by the Board of Architectural Review for preliminary review and approval only, before the project is heard by the Zoning Administrator.
3. The Zoning Administrator shall hold at least one noticed public hearing on the requested Modification and approve, conditionally approve, or deny the request.
4. Notice of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
5. The Zoning Administrator in approving the Modification may require conditions as deemed reasonable and necessary to promote the intent and purpose of this Development Code and the public health, safety, and welfare.

6. The action of the Zoning Administrator is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).

E. Findings required for approval. An application for a Modification shall be approved or conditionally approved only if the Zoning Administrator first makes all of the following findings:

1. Findings for all Modifications.

- a. The project is consistent with the Comprehensive Plan, including any applicable community or area plan.
- b. The project complies with the intent and purpose of the applicable zone including overlays, and this Development Code.
- c. The Modification is minor in nature and will result in a better architectural or site design, as approved by the Board of Architectural Review, and/or will result in greater resource protection than the project without the Modification.
- d. The project will be compatible with the neighborhood, and will not create an adverse impact to aesthetics, community character, or public views.
- e. Any Modification of parking or loading zone requirements will not adversely affect the demand for on-street parking in the immediate area.
- f. The project will not be detrimental to existing ambient noise levels, physical access, light, solar exposure, or ventilation on or off the subject site.
- g. Any adverse environmental impacts will be mitigated to a level of insignificance.

2. Additional finding required for sites within the Summerland Community Plan area.

- a. The development will not adversely impact existing recreational facilities and uses.

F. Expiration.

1. **Expiration in 12 months.** A Modification shall expire 12 months from the effective date if a Coastal Development Permit or Land Use Permit has not been issued for the project for which the Modification was approved unless otherwise specified by conditions of project approval or unless a time extension has been approved in compliance with [Section 35.84.030 \(Time Extensions\)](#).
2. **Once granted a Coastal Development Permit or Land Use Permit.** Once the project for which the Modification was approved has been issued a Coastal Development Permit or Land Use Permit in compliance with [Section 35.82.050 \(Coastal Development Permits\)](#) or [Section 35.82.100 \(Land Use Permits\)](#), the Modification shall have the same expiration date as the issued Coastal Development Permit or Land Use Permit.

- G. Post approval procedures.** The procedures and requirements in [Chapter 35.84 \(Post Approval Procedures\)](#) and those related to appeals in [Article 35.10 \(Land Use and Development Code Administration\)](#), shall apply following the decision on an application for a Modification.

35.82.140 - Nonconforming Status and Extent of Damage Determinations

- A. Purpose and intent.** This Section provides procedures and findings to allow for determining the nonconforming status of and extent of damage to a structure that is damaged or destroyed by earthquake, fire, flood vandalism or other calamity beyond the control of the owner of the structure.
- 1. Toro Canyon Plan Area.** This Section also provides procedures and findings to allow the repair or reconstruction of one nonconforming private detached garage on a lot located within the Toro Canyon Plan Area in compliance with Subsection [35.101.030.B.6 \(Sites within Toro Canyon Plan Overlay\)](#) that is damaged or destroyed by earthquake, fire, flood vandalism or other calamity beyond the control of the owner of the structure.
- B. Applicability.** The provisions of this section shall apply to all nonconforming uses, structures or other development when required in compliance with [Chapter 35.101 \(Nonconforming Uses, Structures, and Lots\)](#).
- C. Contents of application.** An application for a Nonconforming Status and Extent of Damage Determination shall be filed and processed in compliance with [Chapter 35.80 \(Permit Application Filing and Processing\)](#).
- D. Processing.**
1. The Zoning Administrator shall hold at least one noticed public hearing on the requested Nonconforming Status and Extent of Damage Determination and approve, conditionally approve, or deny the request.
 2. Notice of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
 3. The Zoning Administrator, in approving the Nonconforming Status and Extent of Damage Determination, may require conditions as deemed reasonable and necessary to ensure that the intent and purpose of this Development Code and the public health, peace, safety, and general welfare would be promoted.
 4. The action of the Zoning Administrator is final and not subject to appeal.
- E. Finding required for approval.** A Nonconforming Status and Extent of Damage Determination application shall be approved or conditionally approved only if the Zoning Administrator first finds that there is sufficient evidence to establish that the subject structure is nonconforming and that the extent of damage is such that the reconstruction or repair is allowed in compliance with [Chapter 35.101 \(Nonconforming Uses, Structures, and Lots\)](#).
- 1. Additional finding for Nonconforming Status and Extent of Damage Determinations in the Toro Canyon Plan Area.** If the Nonconforming Status and

Extent of Damage Determination application involves repair or reconstruction of a private detached garage, the Zoning Administrator shall also find that there is sufficient evidence to establish that the structure was used as a private garage prior to the damage or destruction by earthquake, fire, flood vandalism or other calamity beyond the control of the owner of the structure.

35.82.150 - Overall Sign Plans

- A. Purpose and intent.** This Section establishes procedures and findings for the approval of Overall Sign Plans that regulate signs located within a shopping center. The intent is to ensure that signs within a shopping center are visually attractive and are in a harmonious relationship to one another.
- B. Applicability.** The provisions of this Section shall apply to all proposed signs located within shopping centers.
- C. Allowed modifications.** The Zoning Administrator may allow the following sign modifications as part of the approval of an Overall Sign Plan:
- 1. Freestanding signs.** An increase in the height, number and size limitations on freestanding signs.
 - 2. Menu boards for drive-through restaurants.** An increase in the area limitation of menu boards.
 - 3. Under canopy sign.** An increase in the area limitation of under canopy signs.
 - 4. Wall sign.** An increase in the area limitation of wall signs.
- D. Contents of application.** An application for an Overall Sign Plan shall submitted in compliance with [Chapter 35.80 \(Permit Application Filing and Processing\)](#).
- E. Processing.**
1. The Overall Sign Plan shall be reviewed by the Board of Architectural Review in compliance with [Section 35.82.070 \(Design Review\)](#) except that the action of the Board of Architectural Review shall be limited to making a recommendation to the Zoning Administrator as described in Subsection 1.b below.
 - a. The Board of Architectural Review shall consider the effect of the proposed Overall Sign Plan on:
 - (1) The various parts of and commercial enterprises within the shopping center.
 - (2) The streets and properties surrounding the shopping center.
 - (3) The overall continuity of design and signs within the shopping center.

- b. The Board of Architectural Review shall recommend approval, conditional approval, or denial of the Overall Sign Plan to the Zoning Administrator, including recommendations as to the number, type, height, location, size, design, color, materials, and lighting of signs within the Overall Sign Plan.
 - c. If the area of menu boards for drive-through restaurants, under canopy signs, or wall signs, or the area, height, or number of freestanding signs is proposed to be in excess of that otherwise allowed in compliance with this Development Code, then the Board of Architectural Review shall make specific recommendations on any such modification.
2. The Zoning Administrator shall hold at least one noticed public hearing on the requested Overall Sign Plan and approve, conditionally approve, or deny the request. The Zoning Administrator shall consider the effect of the proposed Overall Sign Plan upon:
 - a. The various parts of and commercial enterprises within the shopping center.
 - b. The streets and properties surrounding the shopping center.
 - c. The overall continuity of design and signs within the shopping center.
 3. Notice of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#) except that in addition to mailed notice required in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#) notice shall also be mailed a minimum of 10 days prior to the public hearing to all tenants within the shopping center.
 4. The action of the Zoning Administrator is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
- F. Findings required for approval.** If an Overall Sign Plan includes any modifications in compliance with Subsection C. (Allowed modifications) above, then the Overall Sign Plan application shall be approved or conditionally approved only if the Zoning Administrator first makes the following findings, as applicable:
1. **Freestanding signs.** The proposed area, height, or number of freestanding signs is architecturally harmonious in relation to the size and location of the shopping center.
 2. **Menu boards for drive-through restaurants.**
 - a. The proposed area of the menu board is architecturally harmonious in relation to the size and location of the structure on which it will be placed.
 - b. The proposed area of the menu board is architecturally harmonious in relation to the size and location of the area on which the structure is constructed.
 3. **Under Canopy sign.** The proposed area of the under canopy sign is architecturally harmonious in relation to the size and location of the building area occupied by the enterprise proposing the sign.

- (2) The proposed use is essential to shopping needs of the area it serves.
 - (3) The proposed use is not more injurious to the health, safety or welfare of the neighborhood than those listed as permitted uses in the applicable zone because of noise, odor, dust, smoke, vibration, traffic congestion, depreciation of property or other similar causes.
6. **Public Utilities (PU) zone.** The proposed use is similar in character to those listed as permitted uses in the PU zone.
 7. **Recreation (REC) zone.**
 - a. **Coastal Zone.** The proposed use is similar in character to those listed as permitted uses in the coastal REC zone.
 - b. **Inland area.** The proposed use is similar in character to those listed as permitted uses in the inland area REC zone, not including fairgrounds, amusement parks or large indoor recreational complexes.
 8. **Transportation Corridor (TC) zone.** The proposed use is determined to be required for the purpose of operating a railroad or highway.
- F. **Applicable standards and permit requirements.** When the Commission determines that a proposed, but unlisted, use is similar to a listed permitted use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required, and what other standards and requirements of this Development Code apply.

35.82.200 - Variances

- A. **Purpose and intent.** The purpose and intent of this Section is to allow variances from the strict application of the provisions of this Development Code where, because of exceptional conditions (e.g., the location, shape, size, surroundings, or topography, or other extraordinary situation or condition of the subject property), the literal enforcement of this Development Code would impose practical difficulties or would cause undue hardship unnecessary to carry out the intent and purpose of this Development Code.
- B. **Applicability.**
 1. The provisions of this Section shall apply to all zones.
 2. In no case shall a Variance be granted:
 - a. To allow a use or activity which is not otherwise allowed in the zone in which the property is located;
 - b. From the procedures identified in this Development Code; or
 - c. From the required number of parking spaces specified for Medium Density Student Residential (SR-M) zone, High Density Student Residential (SR-H) zone and Single Family Restricted (SF) overlay zone in compliance with [Section 35.36.050 \(Required Number of Spaces: Residential Uses\)](#).
- C. **Contents of application.** An application for a Variance shall be submitted in compliance with [Chapter 35.80 \(Permit Application Filing and Processing\)](#).
- D. **Processing.**
 1. In the Inland area, an application filed in compliance with this Section that is determined by the

Director to be inconsistent with the use and/or density requirements of this Development Code or the Comprehensive Plan shall be accompanied by an application to make the project consistent.

2. In the Inland area, the Department may refuse to accept for processing any application the Director finds to be inconsistent with the Comprehensive Plan.
3. The Zoning Administrator shall hold at least one noticed public hearing on the requested Variance and approve, conditionally approve, or deny the request.
4. Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
5. The Zoning Administrator, in approving the Variance may require conditions as deemed reasonable and necessary to promote the purpose and intent of this Development Code and the public health, safety, and welfare.
6. The action of the Zoning Administrator is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
7. Prior to the issuance of any planning permit required to effectuate the approved Variance, the applicant shall agree, in writing, to comply with all conditions imposed by the review authority in the granting of the Variance.

E. Findings required for approval. A Variance application shall be approved or conditionally approved only if the Zoning Administrator first makes all of the following findings:

1. Findings required for all Variances:

- a. Due to special circumstances applicable to the subject property, including location, shape, size, surroundings, or topography, the strict application of this Development Code deprives the subject property of privileges enjoyed by other property in the vicinity and under identical zone classification.
- b. The granting of the Variance shall not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which the property is situated.
- c. The granting of the Variance will not be in conflict with the purpose and intent of this Development Code or the Comprehensive Plan.

2. Additional finding required for sites within the Summerland Community Plan area.

- a. The granting of a Variance to reduce the number of required parking spaces shall not result in an increase in on-street parking.

F. Post approval procedures. The procedures and requirements in [Chapter 35.84 \(Post Approval Procedures\)](#) and those related to appeals in [Article 35.10 \(Land Use and Development Code Administration\)](#), shall apply following the decision on an application for a Variance.

35.82.210 - Zoning Clearance

A. Purpose and intent. This Section provides procedures and findings to allow for the approval of, and effective time periods for, Zoning Clearances which may be required in compliance with Subsection B. (Applicability) below. The intent of this Section is to ensure that development conforms to the provisions of the Comprehensive Plan, including any applicable community or area plan, this Development Code, and any conditions or development standards established by the County.