

DRAFT



City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

November 15, 2012

CALL TO ORDER:

Chair Lodge called the meeting to order at 1:01 P.M.

I. ROLL CALL

Chair Sheila Lodge, Vice Chair Mike Jordan, Commissioners Bruce Bartlett, John P. Campanella, Deborah L. Schwartz, and Addison Thompson.

Absent: Commissioner Larson

STAFF PRESENT:

Paul Casey, Community Development Director
 Danny Kato, Senior Planner
 Steve Wiley, City Attorney
 N. Scott Vincent, Assistant City Attorney
 Allison De Busk, Project Planner
 Kelly Brodison, Assistant Planner
 Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

A. Action on the review of the following Draft Minutes and Resolutions:

1. Draft Minutes of November 1, 2012
2. Resolution 015-12
1130 N. Milpas Street
3. Resolution 016-12
351 S. Hitchcock Way
4. Resolution 017-12
2224 Gibraltar Road

MOTION: Thompson/Campanella

Approve the minutes and resolutions.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: (as noted) Absent: 1 (Larson)

Commissioner Schwartz abstained from the Minutes and Resolutions of November 1, 2012.

Commissioner Barlett abstained from the Minutes and Resolution of 1130 N. Milpas Street.

- B. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

- C. Announcements and appeals.

None.

- D. Comments from members of the public pertaining to items not on this agenda.

Chair Lodge opened the public hearing at 1:04 P.M. and, with no one wishing to speak, closed the hearing.

III. DISCUSSION ITEM:

ACTUAL TIME: 1:04 P.M.

DISCUSSION CONCERNING CITY CODE OF CONDUCT.

Staff will lead a discussion concerning the City's Code of Conduct for Commissioners.

Case Planner: Paul Casey, Community Development Director

Email: PCasey@SantaBarbaraCA.gov

Phone: 805-564-5470, ext. 5503

Paul Casey, Community Development Director, introduced Steve Wiley, City Attorney, who lead the Staff discussion.

Mr. Wiley and Mr. Casey provided examples of potential conflicts of interest, as well as responded to the Commission's questions with clarification on ex parte communication.

IV. CONTINUED ITEM:

ACTUAL TIME: 1:48 P.M.

APPLICATION OF JIM ZIMMERMAN, ARCHITECT FOR ANINA DAVENPORT, 1533 SHORELINE DRIVE, APN 045-182--14, E-3/SD-3 ZONES, ONE FAMILY RESIDENCE AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MST2012-00046).

This is a revised project. This project was continued from the September 6, 2012, Planning Commission meeting. The project consists of a proposal to construct a 946 square foot second story addition to an existing 2,074 square foot residence with a 345 square foot attached two-car garage located on a 19,166 square foot lot in the appealable

jurisdiction of the Coastal Zone and in the Hillside Design District. Project also includes a major façade remodel, a 92 square foot, one-story addition and interior remodel.

The discretionary applications required for this project are:

1. Two Modifications to allow a conforming second story addition to the existing legally nonconforming building that will alter the basic, exterior characteristics of the existing building within two interior setback on this flag lot (SBMC §28.92.110.A and 28.15.060); and
2. Coastal Development Permit (CDP2012-00002) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC § 28.44).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Existing Facilities).

Case Planner: Kelly Brodison, Assistant Planner

Email: KBrodison@SantaBarbaraCA.gov

Phone: 805-564-5470, ext. 4531

Kelly Brodison, Assistant Planner, gave the Staff presentation.

Jim Zimmerman, Architect, gave the applicant presentation.

Chair Lodge opened the public hearing at 2:02 P.M.

Fred Sweeney, Single Family Design Board Member, spoke in support of the project.

Michael Baugus, neighbor, shared concern about the compatibility of the second story with their own private living space. Asked that first two windows be recessed to take away the angles, as well as the third window. Suggested moving the top story east, away from top tree to minimize impact to neighbors by the second story.

With no one else wishing to speak, the public hearing was closed at 2:10 P.M.

Chair Lodge acknowledged that letters of concern were received from Norman Sorg and Paula Westbury

MOTION: Jordan/Thompson

Assigned Resolution No. 018-12

Approved the project, making the findings for the two modifications and Coastal Development Permit outlined in the Staff Report, dated August 30, 2012, subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revisions to the Conditions of Approval:

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Larson)

Chair Lodge announced the ten calendar day appeal period.

V. ADMINISTRATIVE AGENDA

ACTUAL TIME: 2:22 P.M.

E. Committee and Liaison Reports.

1. Staff Hearing Officer Liaison Report
None was given
2. Other Committee and Liaison Reports
 - a. Commissioner Campanella reported on the Downtown Parking Committee meeting of November 8, 2012.
 - b. Commissioner Jordan reported on the homeless forum being held at 7 p.m., on November 15, 2012, at the Santa Barbara Museum of Natural History.
 - c. Commissioner Jordan reported on the closing weekend of Santa Barbara High School's musical production.
 - d. Commissioner Jordan reported that the Central Coast Regional Water Quality Control Board will be in Santa Barbara December 5-6, 2012.
 - e. Commissioner Jordan reported on the Parks and Recreation Urban Forest Master Plan..
 - f. Commissioner Lodge reported on the Water Commission meeting of November 12, 2012.
 - g. Commissioner Lodge gave a pictorial update on the Bella Riviera project, the El Encanto Hotel, and the Mesa Lane Steps.
 - h. Danny Kato announced that the public comment period for the 101 State Street and 16 S. Mason Street Draft Mitigated Negative Declaration will begin Wednesday, November 21, 2012 and provided the location of related documents.

VI. ADJOURNMENT

Chair Lodge adjourned the meeting at 2:37 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 018-12

1533 SHORELINE DRIVE

COASTAL DEVELOPMENT PERMIT AND MODIFICATIONS

NOVEMBER 15, 2012

APPLICATION OF JIM ZIMMERMAN, ARCHITECT FOR ANINA DAVENPORT, 1533 SHORELINE DRIVE, APN 045-182--14, E-3/SD-3 ZONES, ONE FAMILY RESIDENCE AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MST2012-00046).

This is a revised project. This project was continued from the September 6, 2012, Planning Commission meeting. The project consists of a proposal to construct a 946 square foot second story addition to an existing 2,074 square foot residence with a 345 square foot attached two-car garage located on a 19,166 square foot lot in the appealable jurisdiction of the Coastal Zone and in the Hillside Design District. Project also includes a major façade remodel, a 92 square foot, one-story addition and interior remodel.

The discretionary applications required for this project are:

1. Two Modifications to allow a conforming second story addition to the existing legally nonconforming building that will alter the basic, exterior characteristics of the existing building within two interior setbacks on this flag lot (SBMC §28.92.110.A and 28.15.060); and
2. Coastal Development Permit (CDP2012-00002) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC § 28.44).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Existing Facilities).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, one person appeared to speak in favor of the application, and one person appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, August 30, 2012.
2. Staff Memorandum, November 15, 2012
3. Site Plans
4. Correspondence received in opposition to the project or with concerns:
 - a. Paula Westbury, Santa Barbara, CA
 - b. Norman Sorg, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

I. Approved the subject application making the following findings and determinations:

A. **INTERIOR SETBACK MODIFICATIONS**

The proposed additions are conforming to the required setbacks in the E-3 Zone and the existing house is legally non-conforming to the interior setbacks. The interior yard encroachments are existing and the additions will not exacerbate the existing legally non conforming configuration of the structure. The additions are appropriate and consistent with the purposes and intent of the ordinance and necessary to secure an appropriate improvement on the lot, as discussed in Section VI of the Staff Report dated August 30, 2012 and Section B of this Memorandum dated November 8, 2012.

B. **COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

1. The project is consistent with the policies of the California Coastal Act because it does not result in any adverse affects related to coastal resources, including views and public access, as described in Section VI.C of the Staff Report dated August 30, 2012 and Section B of this Memorandum dated November 8, 2012.
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code because the additions are compatible with the existing neighborhood, are not visible from the beach, will not impact views from public view corridors, will not impact public access, will not contribute to safety or drainage hazards on the site, is not in an archaeological sensitivity zone and will not disturb the coastal bluff or, as described in Section VI.C of the Staff Report dated August 30, 2012 and Section B of this Memorandum dated November 8, 2012.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition F "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
5. [always include] Permits.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
 - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on November 15, 2012, is limited to a 946 square foot second story addition and a 92 square foot first story addition to an existing 2,074 square foot residence with a 345 square foot attached two-car garage and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
 4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
 5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit and Coastal Development Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
 6. **Coastal Bluff Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from waves during storms and erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from

the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

7. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Single Family Design Board (SFDB). The SFDB shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.

1. **Appropriate Plants on Bluff.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the bluff. All existing succulent plants that add weight to the bluff and/or contribute to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion.
2. **Reduction of Future Water Use.** Identify native and drought tolerant plants as landscaping in place of the existing lawn area in the back yard. Calculate the water use for these native and drought tolerant plants and use this as a baseline for irrigation needs. The proposed landscaping shall maintain or reduce this baseline level in the backyard.
3. **Geology.** The project shall comply with the Geologic Investigation prepared by Adam Simmons dated January 25, 2012, and the addendum dated January 25, 2012 and October 12, 2011.
4. The pavers proposed to replace the gravel driveway should be designed to be permeable to avoid increasing impermeable hardscape onsite, except as necessary to meet Fire Department weight requirements. Materials in driveways and parking areas must be approved by the Public Works Director/Transportation Manager.
5. The existing circular tiled patio, shall be removed from the top of bluff.
6. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure. Watering of vegetation on the bluff edge shall be kept to the minimum necessary for plant survival. The drip system along the bluff edge shall be removed after one full season of plant growth.

- D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
 - b. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit worksheets from the Storm Water BMP Guidance Manual for Post Construction demonstrating that the new development will comply with the City's Storm Water Management Plan. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project.
 2. **Community Development Department.**
 - a. **Recordation of Ag eements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
 - b. **Lot Tie Agreement.** The Owner shall record a Covenant and Agreement To Hold Real Property as a Single Parcel. The document shall be reviewed as to form and content by the City Attorney and the Community Development Director and recorded in the Office of the County Recorder.
- E. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section B above.
 2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which

may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

3. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.5, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

- F. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.
1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor's name, telephone number, construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
 2. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 3. [Use for any project that involves tree or brush removal, unless the alternate mitigation measure is triggered, as identified in MND or EIR] **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).
 4. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological

resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

G. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

H. **General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.

- c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
4. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

III. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Planning Commission action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

This motion was passed and adopted on the 15th day of November, 2012 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Larson)

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

Julie Rodriguez, Planning Commission Secretary

Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.

DRAFT