



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 010-13

448 ALAN ROAD

COASTAL DEVELOPMENT PERMIT

JUNE 13, 2013

APPLICATION OF MICHAEL MERRILL FOR MERRILL FAMILY LIVING TRUST, 448 ALAN ROAD, APN 047-072-007, E-3 (ONE-FAMILY RESIDENCE)/SD-3 (COASTAL OVERLAY) ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL (MAXIMUM 3 DU/AC), MST2013-00062.

The proposed project involves demolition of an existing one-story 1,529 sq. ft. single-family residence and 329 sq. ft. detached carport, and construction of a new one-story 1,645 sq. ft. single-family residence and an attached 434 sq. ft. two-car garage, on a 10,018 sq. ft. lot.

The project will require 850 cubic feet of cut and 1,710 cubic feet of fill including 1,060 cubic feet of imported fill, because the present grade sits below Alan Road due to a large swale on the property. The fill will raise the building footprint to the same level as the neighboring properties on either side. Grading will extend a few feet onto the adjoining parcel at 444 Alan Road (APN 047-072-008). The discretionary application required for this project is a Coastal Development Permit (CDP2013-00002) to allow the proposed development in the Appealable and Non-Appealable Jurisdictions of the City's Coastal Zone (SBMC §28.44.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303, New Construction or Conversion of Small Structures.

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

WHEREAS, no one appeared to speak in favor of the application, no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 5, 2013.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA

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

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

COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

The project is consistent with the policies of the California Coastal Act, the City's Local Coastal Plan, all implementing guidelines, and applicable provisions of the Code, as described in Section VI.B of the Staff Report, because the proposed residence would improve the creek and riparian environment, be consistent with the existing single-family neighborhood, and reduce fire and flood hazards on the parcel.

The proposed project is consistent with all requirements of the E-3 residential zone.

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 E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
5. Building and Public Works 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 June 13, 2013 is limited to demolition of an existing one-story 1,529 square foot single-family residence and 329 square foot detached carport, construction of a new one-story 1,645 square foot single-family residence and an attached 434 square foot two-car garage, and the improvements shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.
2. **Development Rights Restrictions.** The Owner shall not make active use other than maintenance of the restricted portion of the Real Property between Arroyo Burro Creek and 30 ft. westward from the established top of creek bank as designated on the approved plans in order that those portions of the Real Property remain in their natural state. Restricted uses include, but are not limited to: grading, irrigation following plant establishment, installation of structures, ornamental landscaping, or utility service lines. The Owner shall continue to be responsible for maintenance of the restricted area, and compliance with orders of the Fire Department. Any vegetation clearance shall be performed without the use of earth moving equipment.
3. **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.
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. **Tree Protection.** The existing jacaranda tree shown on the Landscape Plan in the front yard setback shall be preserved, protected, and maintained.
6. **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.
7. **Pesticide or Fertilizer Usage Near Arroyo Burro Creek.** The use of pesticides or fertilizer shall be prohibited within 30 feet of the top of bank.

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. **Tree Protection Measures.** The landscape plan (and grading plan) shall include the following tree protection measures:
 - a. **Tree Protection.** All trees not indicated for removal on the approved landscape plan shall be preserved, protected, and maintained, in accordance with the any related Conditions of Approval.
 - b. **Landscaping Under Trees.** Landscaping under trees shall be compatible with the preservation of the trees, as determined by the SFDB.
 - c. **During Construction.**
 - (1) All trees within 25 feet of proposed construction activity shall be fenced three feet outside the drip line for protection.
 - (2) No grading shall occur within three feet of the drip lines of the existing trees to be retained, except as indicated on the grading and site plans.
 - (3) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
 - (4) Any root pruning and trimming shall be done under the direction of a qualified Arborist.

- (5) No heavy equipment, storage of materials or parking shall take place under the drip line of any tree(s), or within five (5) feet of the drip line of any oak tree.
 - d. **Extent of Landscaping Required.** The landscape plan shall cover all portions of the project parcel, APN047-072-007 and those portions of the adjoining parcel, APN047-072-008, graded as part of this project. The landscaping on the adjoining parcel shall avoid the use of species identified on the list of invasive plant species available from the California Invasive Plant Council (www.cal-ipc.org/is/inventory), and limit plantings within 30 feet of the top of bank to locally sourced native species. Replanting and landscaping shall strive to use native species with low combustibility ratings to reduce fire hazards.
 2. **Screened Backflow Device.** The backflow devices for fire sprinklers or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the SFDB.
 3. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by SFDB.
- 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. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition D.1.d Alan Road Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements*.
 - b. **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.
 - c. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan treatment, rate, and volume. Project plans for grading, drainage, storm water 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 (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.

The Owner shall provide an Operations and Maintenance Procedure Plan for the operation and use of the storm water management equipment. The Plan shall be reviewed and approved consistent with the Storm Water BMP Guidance Manual.

- d. **Alan Road Public Improvements.** The Owner shall obtain a Public Works permit for construction of improvements along the property frontage on Alan Road. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: removal of existing driveway curb cut and replacement with approximately 12 linear feet of sidewalk, curb and gutter, and a new driveway apron modified to meet Title 24 requirements with a maximum width of 16 feet.
 - e. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul routes for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site. The Haul Routes shall be approved by the Transportation Manager.
 - f. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.
 - g. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the Agreement.
2. **Parks and Recreation Department, Creeks Division.**
 - a. All planted areas from the western toe of Arroyo Burro Creek to 30 feet west of the top of creek bank must be planted with native vegetation of local genetic stock only. The landscape plan shall be revised to meet project conditions of approval.
 - b. A restoration plan covering removal of debris, ivy, and other existing vegetation, replanting and plant maintenance, shall be prepared by a licensed landscape architect.
 - c. The landscape architect shall meet with Creeks Division Staff to review the draft restoration plan prior to final approval from the SFDB for compliance with 2.a and 2.b. above. (please contact George Johnson 897-1958).
 3. **Community Development Department.**
 - a. **Recordation of Agreements.** 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. **Archeological Report.** To comply with HLC conditions of adoption, prior to issuance of a building permit the applicant's archaeologist shall submit: (1) a legible site map in color; and (2) photographs of the existing house elevations; as attachments to the report.
- c. **Requirement for Archeological Resources.** The following information shall be printed on the grading plans (site plan):

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.

- d. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section C, "Design Review," above and all elements/specifications shall be implemented on-site, or as otherwise directed in these Conditions of Approval.
- e. **Solar Access Requirements.** Prior to review and approval by the SFDB, the applicant shall submit drawings identifying 300 sq. ft. of roof area for future solar panels that would not be visible from the street view of the proposed house.
- f. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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.

E. **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 contractors (-contractors' names, 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.
2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.
3. **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. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
 - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
 - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.

- c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
 - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
 - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
 - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
 - g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
 - h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
 - i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
5. **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.

6. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of container for collection of demolition/construction materials.

F. **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. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.

G. **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. **Site Maintenance.** The existing site and structure shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.
5. **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:

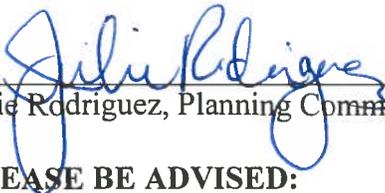
1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal 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.

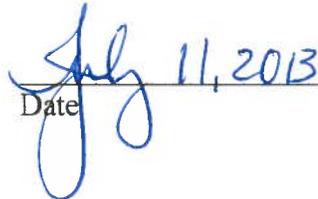
This motion was passed and adopted on the 13 day of June, 2013 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

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.

