



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 007-16

520 E. YANONALI STREET

COASTAL DEVELOPMENT PERMIT, CONDITIONAL USE PERMIT

MARCH 3, 2016

APPLICATION OF LISA ARROYO AND RAYNE OF SANTA BARBARA, INC., APPLICANTS FOR CITY OF SANTA BARBARA, 520 E. YANONALI STREET, APN 017-113-016 OM-1/SD-3 (OCEAN-ORIENTED LIGHT MANUFACTURING/COASTAL OVERLAY) ZONES, GENERAL PLAN DESIGNATION: INSTITUTIONAL, LOCAL COASTAL PLAN DESIGNATION: MAJOR PUBLIC AND INSTITUTIONAL (MST2014-00199)

The project consists of a new brine water discharge facility in the southwest corner of the El Estero Waste Water Treatment Plant. Brine water would be trucked to the site by Rayne of Santa Barbara, Inc. (or other authorized company), discharged into the new facility, and released into the Pacific Ocean via the existing ocean outfall conveyance system.

The project includes the installation of a new 4-inch stainless steel discharge pipe with hose adaptor onto the northern wall of the existing ocean outfall mixing box structure, and a new three-foot by three-foot pre-cast concrete basin beneath the hose adaptor to catch any spills during discharge. An interim digital display meter would be installed on the existing control panel located on the easterly side of the outfall mixing box structure. In the near future, in coordination with the City, this equipment would be upgraded to provide automation of testing equipment and reporting. A small 1-inch sampling line, for testing purposes, would be installed underground and would extend from the southeast corner of the structure approximately 15 feet to one of the new City-installed 6-inch discharge conduits.

The discretionary application required for this project is:

1. A Coastal Development Permit (CDP2014-00009) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060); and
2. A Conditional Use Permit to allow the proposed use in the OM-1 Zone (SBMC Section 28.73.030 and SBMC Chapter 28.94).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines §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, or in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 25 2016
2. Site Plans

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

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

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

1. The project is consistent with the policies of the California Coastal Act, as described in Section VII (C) of the Staff Report. This includes, but is not limited to, consistency with requirements that environmentally sensitive habitat areas (ESHA) be protected and that proposed development should neither preclude services to coastal-dependent land uses, essential public services and basic industries vital to the economic health of the region, state, or nation, nor preclude public recreation, commercial recreation, or visitor-serving land uses. The project would be consistent with these policies.
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, as described in Section VII (B) of the Staff Report. This includes, but is not limited to, consistency with LCP Policies 6.1, 6.2, 6.8, 6.9 and 6.10, which serve to protect biological productivity and water quality of the City's riparian resources and LCP Policy 9.1, which protects views to, from, and along the ocean and scenic coastal areas.

B. **CONDITIONAL USE PERMIT (SBMC SECTION 28.73.030 AND SBMC CHAPTER 28.94)**

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan.

The brine water discharge facility is desirable at the proposed location because the existing ocean outfall conveyance system has the hydraulic capacity to accept brine water from Rayne and/or other water conditioning companies. Disposal of the brine water at the proposed location is a public convenience that is compatible with the Local Coastal Plan, as described in Section VII (B) of the Staff Report.

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved.

The proposed use is compatible with the existing wastewater treatment plant, which is located near industrial and commercial uses and therefore, will not impact the neighborhood.

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.

The proposed equipment is minor in nature, is compatible with the onsite built environment, and will have no impact on the surrounding properties.

4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

Adequate access to the site is available for delivery trucks. No additional parking spaces are required since the use involves delivery only and adequate space is available onsite for trucks to discharge the brine water into the brine water discharge facility.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title.

The proposed use involves the installation of equipment that would be compatible with the existing mixing box structure and the surrounding built environment on the project site. No open space restrictions are necessary with the proposed project.

6. Compliance with any additional specific requirements for a conditional use permit.

The proposed project would also be subject to the requirements of the RWQCB permit and the Agreement between Rayne of Santa Barbara, Inc. (or other authorized companies) and the City of Santa Barbara.

7. The use is compatible with ocean-dependent or ocean-related uses.

The use is compatible with the existing desalination plant facility that currently allows discharging of brine water and is ocean-dependent.

8. The property would have no feasible economic value if limited to ocean-dependent or ocean-related uses. This finding shall be substantiated by competent evidence determined by the Planning Commission to be objective which includes no present or future demand for ocean-dependent or ocean-related uses.

The property is currently being used as a wastewater treatment plant and desalination facility. The new brine water discharge facility used to accept brine water from offsite would not preclude the use of the site for other ocean-dependent or ocean-related uses.

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. Permits - Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.

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

- B. **Written Agreement.** The Applicant shall submit a letter to the Planning Division indicating the following:
1. **Approved Development.** The development approved by the Planning Commission on March 3, 2016 is limited to a new brine discharge facility consisting of a new discharge pipe with hose adaptor on the existing ocean outfall mixing box structure, a small 1-inch sampling line, for testing purposes, installed underground extending from the southeast corner of the structure approximately 15 feet to one of the new City-installed 6-inch discharge conduits and related improvements, as shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. No new lighting is proposed.
 2. **Use Limitations.** Although Rayne is a co-applicant for this project, and would install the necessary equipment, other companies would be allowed to use the brine discharge facility at the discretion of the City of Santa Barbara. In the event that the City desires to enter into an agreement with a company that would result in more than a total of 18 large truck or 45 small truck deliveries per week, the proposal shall be reviewed, at a minimum, as a Level Three Substantial Conformance Determination (Planning Commission Lunch Meeting) request.
- C. **Requirements Prior to Permit Issuance.** The Applicant 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. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Community Development Department.**
 - a. **Written Agreement.** Provide the written instrument that includes all of the conditions identified in Condition B “Written Agreement” to the Community Development Department prior to issuance of any building permits.
 - b. **Contract with Biologist.** Submit a contract with a City approved qualified biologist to perform the pre-construction nesting bird survey and construction monitoring as described in Conditions D.1 and D.2. The contract shall be subject to the review and approval of the Environmental Analyst.
 - c. **Contractor and Subcontractor Notification.** The Applicant shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a draft copy of the notice to the Planning Division for review and approval.
 - d. **Conditions on Plans/Signatures.** The final 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. 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:

_____ Applicant	_____ Date	_____ License No.
_____ Contractor	_____ Date	_____ License No.
_____ Architect	_____ Date	_____ License No.
_____ Engineer	_____ Date	_____ License No.

- D. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Applicant and/or Contractor for the duration of the project construction.
1. **Pre-construction Nesting Bird Survey (MMRP BIO-12).** A pre-construction survey for nesting birds shall be conducted by a qualified biologist to determine if active nests of special-status birds, or common bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code, are present in the construction zone or within 300 feet of the construction zone. The survey shall be conducted within one week prior to construction or site preparation activities that would occur during the nesting/breeding season of native bird species potentially nesting on the site (typically March 1 through August 30).
 2. **Nesting Bird Buffers and Requirements (MMRP BIO-13).** If active nests are found, a no construction buffer shall be established at a minimum of 100-foot (this distance may be greater depending on the bird species and construction activity, as determined by the biologist) around the nest site where it overlaps with work areas. Clearing and construction within no-construction buffer shall be postponed or halted, at the discretion of the biologist, until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. In addition, all active nests shall be mapped with a GPS unit and nest locations with 100-foot buffers overlain on aerial photographs to provide regular updated maps to inform the Project manager/engineer and construction crew of areas to avoid. The City approved biologist should also serve as a construction monitor during the breeding season to ensure that there are no inadvertent impacts to nesting birds.
 3. **Riparian Protection (MMRP BIO-15).** All construction-related activities, including, but not limited to demolition, construction, staging area, and access routes shall be located a minimum of 50-feet from riparian habitat associated with Laguna Channel and El Estero Swale, when possible. In locations where the construction activities encroach within this buffer, it is important to provide further protection to riparian vegetation and the wetland and aquatic habitats of Laguna Channel to the greatest extent possible. Specifically, these protection measures shall include the following:
 - a. The Contractor shall establish a temporary barrier between riparian habitat using highly visible construction fencing to ensure that trees and other vegetation are visible during construction. It is recommended that the fencing be placed along the access road, just to the west of the curb.

- b. The Contractor shall install road signs along the western access route that notify drivers of sizeable vehicles/construction equipment (cranes, drilling rigs, water and concrete trucks, etc.) that sensitive riparian trees and vegetation occur adjacent to the road and work site.
 - c. When sizeable construction equipment is working near riparian vegetation, it is highly encouraged that flaggers are utilized to assist in equipment positioning to avoid riparian impacts during construction activities.
 - d. If direct impacts to riparian vegetation cannot be avoided, a CDFW Streambed Alteration Agreement (SAA) pursuant to Section 1600 et seq. of the California Fish and Game Code should be acquired before initiation of construction.
 - e. All Construction related activities are limited to daylight hours only.
4. **Best Management Practices (BMPs) (MMRP BIO-14).** The Contractor shall install appropriate BMPs to control sediment, coarse particles, concrete, and other materials exposed during demolition and drilling to protect aquatic, wetland, and riparian habitats adjacent to construction site. Erosion control measures should be implemented to prevent runoff of these materials into Laguna Channel and El Estero Swale. Silt fencing, straw bales, and/or sand bags should be used in conjunction with other methods to prevent turbid waters from entering stream channels.

During construction activities, washing of concrete, paint, or equipment shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Washing will not be allowed in locations where the tainted water could enter the sanitary sewer system, Laguna Channel or El Estero Swale.

5. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering Divisions, Community Development Department Building and Planning Divisions, the Creeks Division, the approved Biologist, Contractor and each Subcontractor.
6. **Construction Storage / Staging.** Construction vehicle / equipment / materials storage and staging shall be done on-site. No parking or storage shall be permitted within the identified "no disturbance buffer" adjacent to the Laguna Creek Channel, unless specifically permitted by the Creeks Division.
7. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site.
8. **Biological Compliance Report.** The City-approved biologist shall submit a report at time of project completion regarding compliance with Conditions D.1 and D.2 to the Community Development Department.
9. **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 Applicant 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.

E. **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 and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **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.

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.

IV. NOTICE OF CONDITIONAL USE PERMIT TIME LIMITS:

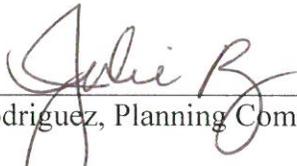
The Planning Commission action approving the Conditional Use Permit Amendment shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

This motion was passed and adopted on the 3rd day of March, 2016 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

4/7/16

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.