



# City of Santa Barbara California

*Revised*

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 009-10  
1126 DEL MAR AVENUE  
MODIFICATION  
MARCH 24, 2010

**APPLICATION OF AMY TAYLOR, ARCHITECT FOR E. MAURINE ATKINS, PROPERTY OWNER, 1126 DEL MAR, APN 045-221-007, E-3/SD-3 SINGLE FAMILY RESIDENCE AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL 5 UNITS/ACRE (MST2009-00558)**

The proposed project involves a proposal to create a 599 square foot secondary dwelling unit within the existing 1,387 square foot single family residence on a 14,174 square foot lot within the non-appealable jurisdiction of the Coastal Zone. The discretionary application required for this project is a Coastal Development Permit for a secondary dwelling unit (SBMC § 28.44).

Pursuant to SBMC §28.44.110, when a proposed development only involves the addition of a secondary dwelling unit to an existing single family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendar days after notice has been provided.

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

**WHEREAS**, no written comments were received on the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 3, 2010.
2. Site Plans

**NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer:

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

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. The proposed project is: compatible with the existing neighborhood because a portion of the existing residence would be converted to the secondary dwelling unit; is not visible from the beach; does not impact views from public view corridors; does not impact public access; and, does not contribute to safety or drainage hazards on the site and is not located on a coastal bluff or in an archaeological sensitivity zone.

II. Said approval is subject to the following conditions:

- A. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, prepared by staff, which shall be 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 Staff Hearing Officer on December 10, 2010 is limited to an interior remodel of approximately 599 square feet to create a secondary dwelling unit within the existing 1,846 square foot one-story single family residence with an existing 462 square foot detached garage. and the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
  2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted 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 Design Review Board.
  4. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc. ) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). 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 applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit or 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.
  5. **Secondary Dwelling Unit Restrictions.**
    - a. **Sales Prohibition.** The secondary dwelling unit shall not be sold separately from the primary dwelling unit.
    - b. **Size Restriction.** The secondary dwelling unit is restricted to 599 (net) square feet.

- c. **Owner Occupancy Required.** The approval for the secondary dwelling unit shall be in effect only so long as either the Primary Dwelling Unit or the Secondary Dwelling Unit is occupied by the owner of the lot on which the Secondary Dwelling Unit is located, except for bona fide temporary absences. The approval shall remain valid if disability or infirmity require the institutionalization of the owner.
  - d. **Unit Removal.** The approval and any conditions imposed by said permit shall lapse upon removal of the Secondary Dwelling Unit.
  - e. **Declarations Binding.** The above declarations are binding upon any successors in ownership of the property; any lack of compliance may result in code enforcement actions including, but not limited to fines and may also require that the Property be redesigned and possibly reconstructed in order to eliminate the Secondary Dwelling Unit and reestablish one single-family dwelling unit.
  - f. **Restrictions Recorded.** The above restrictions shall be controlled by means of a recorded covenant executed by owner and the City to assure compliance over the lifetime of the Secondary Dwelling Unit.
- B. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
- 1. **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 will prepare said agreement for the Owner's signature.
  - 2. **Public Works Permit.** Prior to issuance of Building permit, apply for a Public Works Permit for the "as-built" existing drainage course running through the subject property which is discharging to the public right of way as required by SBMC 14.56. A separate C-1 plan for the private drainage may be required. All plans shall be prepared by a registered civil engineer.
- C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
- 1. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.
- D. **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. **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.

2. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property, outside of any required setback or yard area, and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

3. **Conditions on Plans/Signatures.** The final Staff Hearing Officer 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.

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.

1. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31st
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number that is answered by a person, not a machine.

2. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
    - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
    - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
    - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
  3. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
  4. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
  5. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
  6. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
  7. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
- 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 damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
  2. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.

3. **Required Parking.** The building permit for the required two car garage shall receive final building permit signoff.
  4. **Exterior Junk and Debris.** All outside storage of rubbish and debris shall be removed from the required setbacks, front yard, and open yard areas.
- G. **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.

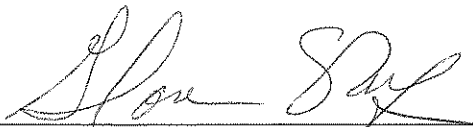
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification 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.

**NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:**

Pursuant to Section 28.44.230 of the Santa Barbara Municipal Code, work on the approved development shall commence within two years of the final action on the application, unless a different time is specified in the Coastal Development Permit. Up to three (3) one-year extensions may be granted by the Community Development Director in accordance with the procedures specified in Subsection 28.44.230.B of the Santa Barbara Municipal Code.

This motion was passed and adopted on the 24th day of March 2010, by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this *revised* Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.

  
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Gloria Shafer, Staff Hearing Officer Secretary

4-6-2010  
\_\_\_\_\_  
Date

**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
5. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
  - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
  - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
    - i. an Issuance of a Certificate of Occupancy for the use, or;
    - ii. one (1) year from granting the approval.