



City of Santa Barbara California

II.D.

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: January 2, 2013
AGENDA DATE: January 9, 2013
PROJECT ADDRESS: 1198 Coast Village Road (MST2012-00231)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Renee Brooke, AICP, Senior Planner
Suzanne Riegle, Assistant Planner

I. PROJECT DESCRIPTION

The 32,241 square foot site is located within the Non-Appealable Jurisdiction of the Coastal Zone and is currently developed with a 25-room hotel and a 1,507 square foot one-story restaurant with 36 parking spaces. The existing restaurant structure is nonconforming to the required ten-foot front setbacks along Coast Village and Middle Roads. The proposed project involves alterations to the existing restaurant, including the demolition of a 36 square-foot unpermitted storage enclosure, the unpermitted construction of a 181 square-foot addition to the restaurant's service and storage areas, the reconstruction of access stairways, restriping of the existing parking lot, and the demolition and relocation of an unpermitted trash enclosure. A Public Works Encroachment Permit will be required for any improvements constructed in the public right-of-way.

The discretionary applications required for this project are Modifications to allow the demolition and reconstruction of access stairways and the "as-built" 181 square-foot addition to be located within the required ten-foot front setbacks (SBMC § 28.63.060 and SBMC § 28.92.110). Additional alterations to the restaurant to improve the existing outdoor patio areas, including the construction of a covered outdoor kitchen, bar, dining and waiting areas, were previously reviewed and approved by the Architectural Board of Review (ABR) and are not the subject of this current request.

Date Application Accepted: 12/3/12

Date Action Required: 3/3/13

II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project, subject to a condition.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Sherry & Associates Architects	Property Owner:	Dewayne Daniel & Kathleen M. Copus
Parcel Number:	009-222-010	Lot Area:	32,241 sq. ft.
General Plan:	Commercial	Zoning:	C-1/SD-3
Existing Use:	Motel & Restaurant	Topography:	15% slope

Adjacent Land Uses:

North - Residential (County Jurisdiction) East, South, and West - Commercial

IV. BACKGROUND

The properties along the street which is now known as Coast Village Road, formerly known as Old Coast Highway, were annexed from the County of Santa Barbara into the City Limits of Santa Barbara in 1960. At the time of the annexation, the properties were given the zoning designation of C-1 (Limited Commercial) and there were no setbacks required. The C-1 zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities.

A review of the archive records and plans for the subject property revealed the following:

- In 1964 a building permit was issued to construct a new restaurant, DeAnza Cocktails, on the site of the existing DeAnza Motel. The building was located 2'-6" from the property line along Middle Road, and three feet from Coast Village Road with the eaves extending to the property line.
- By 1968, the City had prepared drawings for public improvements along Coast Village Road, including sidewalks on both the north and south side, and had obtained the necessary easements from property owners.
- In 1978, permits were issued for additions and alterations to the existing restaurant.
- In 1980, a permit was issued for a new deck at the west side of the existing restaurant. The plans show the access stairways from Coast Village and Middle Roads and the "existing" restaurant footprint includes the unpermitted addition, both of which are the subject of the current modification request. However, some of the improvements shown were located within the public right-of-way and did not receive a separate Public Works Encroachment Permit.
- In 2001, the 181 square-foot unpermitted addition was reconstructed under a narrative permit (BLD2001-03030) that stated that the portion of the restaurant that was damaged by a vehicle would be reconstructed "like for like" without requiring new plans. The unpermitted addition was not discovered at the time of permit issuance and, therefore, was recently reconstructed.

V. **DISCUSSION**

On August 13, 2012, the ABR reviewed and approved alterations to the existing restaurant, including the construction of a covered outdoor kitchen, bar, dining and waiting areas. Plans submitted for building permit plan check revealed that there were additional unpermitted improvements located in the required ten-foot front setbacks and the public right-of-way.

The project before the Staff Hearing Officer involves alterations to the existing restaurant, including the demolition of a 36 square-foot unpermitted storage enclosure, the unpermitted construction of a 181 square-foot addition to the restaurant's service and storage areas, the reconstruction of access stairways, restriping of the existing parking lot, and the demolition and relocation of an unpermitted trash enclosure. The focus of the modification requests are to allow the unpermitted addition within the ten-foot front setback off Middle Road and the reconstruction of access stairways to meet current building code requirements, which encroach into the required ten-foot front setback from Coast Village Road.

The stairs were previously permitted in 1980 with a majority of the stairway located on the private property and a few treads extending into the public right of way of Coast Village Road. Due to the scope of proposed improvements to the restaurant, the stairway must be brought up to current building code requirements and will be reconstructed on private property, removing the encroachment into the public right-of-way. Staff believes that the modification to allow the stairway to be reconstructed within the setback is appropriate due to the topography of the site and the historical location of the stairway.

The unpermitted 181 square-foot addition was constructed sometime between 1978 and 1980 and houses food storage, a walk-in cooler, and dishwashing operations for the restaurant. The permitted restaurant was located approximately 2'-6" from the property line along Middle Road and the unpermitted addition extended the encroachment to the north, along Middle Road. The addition was built almost entirely within the secondary, ten-foot front setback and encroaches slightly into the public right-of-way. Although it represents a significant encroachment into the front setback, the addition is not anticipated to adversely impact the neighbors or diminish light, air and existing visual amenities along this corridor. The unpermitted structure has been in place since 1980 and was reconstructed in 2001 (under BLD2001-03030) without any neighborhood concerns. A Public Works Encroachment Permit will be required in order for the addition to be maintained in its current configuration and location. In the event that the Modification is approved and the Public Works Encroachment Permit is not approved, the applicant would need to request a Substantial Conformance Determination for staff to consider whether the addition could be altered to remove the unpermitted structures from the right-of-way but remain in the required front setback, extending to the property line.

The entire access stairway along the Middle Road frontage was constructed within the public right-of-way and is not subject to the Staff Hearing Officer's review and approval. However, a Public Works Encroachment Permit will be required to allow the stairway to remain within the right-of-way, and may require reconstruction to bring the stair into compliance with the current building code requirements.

VI. FINDINGS AND CONDITION

The Staff Hearing Officer finds that the Modifications to allow the unpermitted addition and reconstruction of access stairways within the front setbacks are consistent with the purposes and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on the lot. The proposed reconstruction of the stairway is appropriate because it will be upgraded to be building code compliant with uniform treads and compliant handrails, and will maintain a pedestrian entrance to the restaurant from Coast Village Road, while eliminating the encroachment into the public right-of-way. The unpermitted addition was constructed prior to 1980 without any neighborhood concerns and is not anticipated to adversely impact the neighbors or diminish light, air and existing visual amenities along this commercial corridor.

Said approval is subject to a condition that, prior to issuance of a building permit for proposed project, the applicant shall apply for a separate Public Works encroachment permit for any private improvements located within the public right-of-way. Please note that building permit issuance for improvements on the private property does not legalize any private improvements within the public right-of-way.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter, dated December 3, 2012
- C. ABR Minutes

Contact/Case Planner: Suzanne Riegle, Assistant Planner
(SRiegle@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805) 564-5470 x 2687

S h e r r y & A s s o c i a t e s A r c h i t e c t s

December 03 2012

Re: Modification Request
BLD2012-01966
Peabody's Restaurant
1198 Coast Village Road
Santa Barbara, CA 93101

RECEIVED

DEC 03 2012

**CITY OF SANTA BARBARA
PLANNING DIVISION**

To Whom It May Concern,

We are asking that the City of Santa Barbara Planning & Zoning Department support our request for a Modification to the Front Yard Setbacks. The required front yard setback in this zone is 10'-0," and although the various "as-built" architectural elements outlined in this letter project to different degrees into the Right-of-Way and front yard setbacks, we feel that their configurations and long-time presence do not infringe upon the surrounding area's access to light, air, and existing visual amenities.

There are several existing architectural elements that have been deemed by various departments in Community Development as illegally constructed within the front yard setbacks and right-of-ways along both Coast Village & Middle Roads, respectively. Although the construction of the elements in question was carried out through numerous permits submitted by the previous tenants over the last fifty years, Community Development staff have deemed the permits addressing these areas as insufficient to recognize these elements as legally permitted. It was during our current Tenant Improvement Permit submittal that these areas were evaluated in greater detail and determined to be non-conforming to current code standards. Given the fact that these areas in question were not proposed to be altered in any way under our current tenant improvement permit (and that numerous permits relating to these specific architectural elements were submitted throughout the years, yet not properly processed by City staff) we are asking that City staff support our request to recognize these areas as legally non-conforming under the proposed Modification. The following is a list of the areas we are addressing under this Modification request:

1. A permit for construction of the main structure of the restaurant was granted in 1964 by the County of Santa Barbara. The permit proposed a one-story wood-framed building, situated at the top of a steep grade along the south end of the parcel located at the corner of Coast Village and Middle Roads. Included in this submittal were plans clearly showing the structural and architectural elements of the building, including the foundation stem wall and a 7'-6" site retaining wall

facing towards Coast Village Road. Although it was recognized by the County as legally conforming at the time of construction, the walls are now recognized by the City Public Works Department as encroaching into the front yard setback and R.O.W. along Coast Village Road. Due to the fact that both walls were built legally under County supervision, we are requesting that the City support our request to maintain the walls in their current configuration. The walls are integral to both the foundation and site design, and have existed as such since their construction.

2. The main set of wood stairs leading from Coast Village Road onto the front patio are also deemed illegal, even though a Building Permit was issued in 1980 for this scope of work. While the permit was stamped and approved by ABR and the Building Department, Public Works apparently has no recorded information of ever reviewing the permit. Since no Public Works stamp can be found on the archived set, this scope of work, along the construction of a set of wood steps at Middle Road proposed under the same permit, is no longer recognized by any department as legal. While we are asking that the City support our request to maintain the front stairs at Coast Village Road and set of wood steps at Middle Road, we recognize that a second set of stairs built in the Right-of-way at Middle Road was constructed without a permit, and will remove them under the currently submitted permit. A small portion of the front stairs at Coast Village Road encroach into the Right-of-Way, and the new tenants have agreed to relocate them out of this area and construct a new set of stairs at the same location. The new set of stairs will still reside within the front yard setback. The front stairs have provided access from the sidewalk at Coast Village Road to the primary entrance since 1980, and have become a long recognized element of this parcel's frontage. We feel that removing the stairs at this point in time is unnecessary and would make access to the restaurant even more difficult and dangerous for patrons. The stairs are visually integrated into the overall design of the existing structure and do not unnecessarily impede any sightlines.

3. The last architectural element to be addressed by this Modification Request is the rear portion of the kitchen located along the northeastern side of building. This area houses storage, a walk-in cooler and utility area of the restaurant, and has been indicated on plans submitted for City review since 1980. Although this addition has shown up on a 1980 permit submittal, this area was never formally permitted. Most of the structure resides in the front yard setback, while small portions of the rear storage addition and utility room reside in the Right-of-Way. This addition is an approximately 8'-0" wood-framed structure, comprised of a flat roof that compliments the larger gabled main roof-line of the restaurant. It is constructed of the same wood shingle siding as the main building. In 2001, a car crashed into this portion of the building, requiring the tenant to request an Emergency Building Permit to rebuild and repair the damaged area. Although a clear description of the affected area and proposed work was provided to the City

under the 2001 submittal, no drawings were ever provided. The permit was issued, and the work was finalized in 2007. However, the Building Department has retracted this permit and deemed this area as illegal. We are asking the Modification also recognize this area as integral to the overall structure, and necessary for the building to continue functioning as a restaurant, as proposed under the current Tenant Improvement Submittal. Although this portion of the structure is visible when traveling down Middle Road towards the intersection of Coast Village Road, its domination by the form of the main building when viewed from Coast Village Road allows it to blend into the background. The addition was built with consideration of the existing structure and the materials, and color used match the existing structure perfectly. Due to the low height of the addition no sight lines are disrupted as commuters travel up or down Middle Road. It is for the reasons previously listed that we feel a Modification to allow this area to remain in the Right-of Way and front yard setback can be supported.

We thank you for your efforts in addressing these issues. We understand the difficulties that have arisen through the evaluation of the site issues, and hope the City recognizes the constraints facing the new tenant. While they every intention of mitigating these issues to the best of their abilities, they hope that the City respect their unenviable position of inheriting a site loaded with so many pre-existing issues. If you need further information, or would like to speak about any part of this letter in further detail, please do not hesitate to contact our office. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Watkins', with a long horizontal flourish extending to the right.

David Watkins
Associate Project Manager



DESIGN REVIEW ACTIVITIES SUMMARY

1188 COAST VILLAGE RD (MST2012-00231)

C-ALT

Proposal for exterior alterations to an existing 1,507 square foot commercial restaurant building. The project consists of adding a 725 square foot fixed cover and a 343 square foot retractable cover over an existing patio, replacement of this concrete patio in the same location, a 170 square foot roof trellis over an existing deck, staining the existing shingle siding of the building, replacing the concrete for the existing 950 square foot concrete patio with new and adding a new exterior oven and bar area, and the existing 484 square foot wood patio, new outdoor heaters and patio lighting, and replacing existing 6-7 foot tall wood fence, add a new planter area, and the removal of an existing 48-inch diameter cypress tree located within the existing concrete patio and interior remodeling. Seating for the restaurant is limited to 50 seats inside and 25 outdoor patio seats. The parcel is located within the non-appealable jurisdiction of the Coastal Zone.

Status: Design Review Approved/PC Approved, No Design Review Required

DISP

Date 3

ABR-Concept Review (New)

CONT

06/25/12

(Action may be taken if sufficient information is provided.)

Actual time: 5:47 p.m.

Present: Greg Schmandt Designer; Denise Allec, Tenant's Representative.

Public comment was opened at 5:58 p.m. As no one wished to speak, public comment was closed.

Motion: Continued two weeks to the Full Board with the following comments:

1. Removal of the Cypress tree is not acceptable unless justified by an Arborist's report.
2. The proposed architectural style of the patio covers is not consistent with the existing building.
3. Study removing or screening the existing roof equipment and the trash and storage areas at Middle Road.
4. Provide a landscaping plan for the front yard area along Middle Road and for all other proposed new planting.

Action: Gradin/Mosel, 5/0/0. Motion carried. (Sherry and Zink absent)

ABR-Concept Review (Continued)

APVD

07/09/12

(Second Concept Review; project was last reviewed on June 25, 2012. Action may be taken if sufficient information is provided.)

Actual time: 4:08

Present: Greg Schmandt, Architect; Sam Maphis, Landscape Architect; Denise Allec, Tenant's Representative.

Public comment was opened at 4:23 p.m. As no one wished to speak, public comment was closed.

Staff comments: Mr. Boughman reported that Tim Downey, Urban Forest Superintendent reviewed and concurred with the conclusions contained in the Arborist Report.

Motion: Project Design Approval and continued indefinitely to the Full Board with comments:

1. Consider adding a Monterey Cypress tree in the proposed new landscape areas
2. Verify trash enclosure and location complies with ADA requirements.
3. Applicant was requested to prepare a preliminary kitchen design to allow review of necessary rooftop kitchen equipment screening.

Action: Gradin/Rivera, 5/0/1. Motion carried. (Zink abstained, Sherry absent)

The ten-day appeal period was announced.

ABR-Final Review Hearing **CONT** **08/06/12**
(Project last reviewed and received Project Design Approval on July 9, 2012.)

Actual time: 4:59 p.m.

Present: Greg Schmandt, Architect; Denise Allec, Tenant's Representative.

Public comment was opened at 5:02 p.m. As no one wished to speak, public comment was closed.

Motion: Continued one week to Consent with the comment to verify requirements for the height of the landscaping and encroachments in the right-of-way.
Action: Rivera/Poole, 5/0/0. Motion carried. (Sherry/Zink absent.)

ABR-Consent (Final Review) **APVD** **08/13/12**
Final approval with the condition that the proposed replacement Monterey Cypress in the right-of-way is approved by the Parks and Recreation Commission. Two Evergreen Pear trees (street tree for Middle Road) are acceptable as an alternative if required by Parks and Recreation.

ABR-Consent (After Final) **PEND** **01/07/13**
(Review After Final for the demolition of a 36 square-foot as-built storage enclosure, demolition of the as-built trash enclosure, a new relocated trash enclosure and restriping the parking lot, the reconstruction of access stairways located in the front setback, and permitting the as-built 181 square-foot addition to the restaurant's service and storage areas located in the front setback and right-of-way on Middle Road. An accessible lift might be required for pedestrians. The project requires Staff Hearing Officer review of a zoning modification and a Public Works encroachment permit.)