



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 024-05

230 STEARNS WHARF

MODIFICATION AND COASTAL DEVELOPMENT PERMIT

APRIL 7, 2005

APPLICATION OF THE SANTA BARBARA SHELLFISH COMPANY, LESSEE, AND THE CITY OF SANTA BARBARA, PROPERTY OWNER, 230 STEARNS WHARF, APN 033-120-022, H-C/SD-3: HARBOR COMMERCIAL/COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: HARBOR COMMERCIAL (MST2004-00309)

The project consists of a proposal for a new 146 square foot outdoor seating area and a new 20 square foot recycling enclosure adjacent to the Santa Barbara Shellfish Company on Stearns Wharf.

The discretionary applications required for this project are:

1. Modification of the parking requirement to allow the development without providing the required parking spaces (SBMC§28.90); and
2. A recommendation to the California Coastal Commission on an Amendment to the Coastal Development Permit for Stearns Wharf for development in the Permit Jurisdiction of the Coastal Zone (SBMC §28.45.009).

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

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

WHEREAS, 1 person appeared to speak in favor of the application, and 0 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 31, 2005
2. Site Plans

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

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

Staff recommends that the Planning Commission make the following findings and approve the Modification and Coastal Development Permit subject to the conditions of approval in Exhibit A.

A. **PARKING MODIFICATION FINDINGS (SBMC §28.90)**

The modification will not be inconsistent with the purposes and intent of the Zoning Ordinance and will not cause an increase in the demand for parking spaces or loading spaces in the immediate area. There are adequate parking resources in the waterfront area during peak and non-peak times and the project would not significantly impact the parking resources in the waterfront area.

B. **COASTAL DEVELOPMENT PERMIT FINDINGS (SBMC §28.45.009)**

The project is consistent with the policies of the California Coastal Act, with all applicable policies of the City's Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Municipal Code. The proposed outdoor seating is consistent with visitor-serving policies and would not significantly affect the visual resources of the project area. The project would not interfere with the public's right to access to the coast, would not interfere with the perimeter walkway, and would not significantly affect public resources related to traffic and parking.

II. Said approval is subject to the following conditions:

- A. **California Coastal Commission Approval Required.** Approval of Modification and Coastal Development Permit contingent upon approval by the California Coastal Commission.
- B. **Allowed Development.** The development of the Real Property approved by the Planning Commission on April 7, 2005 is limited to the outdoor seating area consisting of four tables with benches and the trash enclosure as shown on the plan signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
- C. **Shuttle Service.** The lessee shall agree to participate in the program developed by the Waterfront Department for continued and improved shuttle service between beach area parking lots and the Wharf.
- D. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be directed toward the ground.
- E. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building and Safety Division with applications for building permits. All of these construction requirements shall be carried out in the field and completed prior to the issuance of a Certificate of Occupancy:
1. **Construction Debris Disposal.** All construction related debris shall be disposed of properly. Any construction related debris that is deposited in the ocean shall be promptly removed.

2. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:30 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:

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

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

Notwithstanding the prohibition above, when, based on required construction type or other appropriate reasons, it is necessary to do work outside the hours allowed, owner/contractor may request a waiver from the construction hour limitations from the Chief of Building and Safety in accordance with the procedure outlined in SBMC§9.16.015, Construction Work at Night.

3. **Construction Contact Sign.** Immediately after building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
4. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. 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:

| | | |
|-------------------|------|-------------|
| Applicant/ Lessee | Date | |
| Contractor | Date | License No. |
| Architect | Date | License No. |
| Engineer | Date | License No. |

- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Applicant/Lessee shall repair any damaged public improvements subject to the review and approval of the Public Works Department.
- G. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Lessee 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/Lessee 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/Lessee 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/Lessee 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 MODIFICATION APPROVAL TIME LIMITS:

The Planning Commission's action approving the Modifications shall terminate if a building permit is not sought within twelve (12) months of granting of the approval and construction diligently pursued to completion and issuance of a certificate of occupancy. Pursuant to section

28.87.360 of the Municipal Code, the Community Development Director may grant an extension to the twelve (12) month period.

SBMC§28.87.360 states that modifications are valid for one year following Planning Commission's approval. Said section also allows the Community Development Director to approve time extensions for such approvals. Because this approval is tied to the Coastal Development Permit approval, the Director hereby approves an extension to coincide with the Coastal Development Permit.

NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

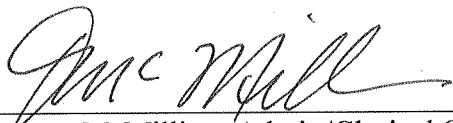
The Planning Commission's action approving the Coastal Development Permit shall expire two (2) years from the date of approval, per SBMC 28.45.009.q, unless:

1. Otherwise explicitly modified by conditions of approval of the development permit, or unless construction or use of the development has commenced.
2. A building permit for the work authorized by the Coastal Development Permit is issued prior to the expiration date of the approval.
3. A one (1) year time extension may be granted by the Planning Commission if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy. Not more than three (3) extensions may be granted.

This motion was passed and adopted on the 7 day of April, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.



Deana Rae McMillion, Admin/Clerical Supervisor



Date

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