



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 010-06

1425 MISSION RIDGE ROAD

MODIFICATION AND NEIGHBORHOOD PRESERVATION ORDINANCE

FEBRUARY 16, 2006

APPLICATION OF PHILIP SUDING, AGENT FOR ESCALARA LIVING TRUST, PROPERTY OWNERS, 1425 MISSION RIDGE ROAD, APN 019-103-023, A-2, SINGLE FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, THREE UNITS PER ACRE (MST2005-00098)

The project consists of “as-built” construction of a 229 foot long concrete masonry unit retaining wall (which varies in height) at the front of the property to a maximum height not to exceed 9 feet, “as-built” cumulative grading in excess of 500 cubic yards, “as-built” demolition of an existing swimming pool, a proposal to construct 55 linear feet of retaining walls and iron entry gates to be a maximum height not to exceed eight feet at the driveway, and a landscaping plan to replace landscaping that was removed from the public right-of-way. Two options are shown on the current proposal. Option A proposes to leave the wall at its current “as built” maximum height not to exceed 9 feet. Option B proposes to reduce the height of the wall to a maximum height not to exceed 7 feet.

The following discretionary applications are required for the project:

1. A Modification to allow a wall that exceeds 3 ½ feet in height to be located within 10 feet of the front lot line (see SBMC § 28.87.170).
2. Neighborhood Preservation Ordinance Findings for grading in excess of 500 cubic yards outside the building footprint (SBMC § 22.68.060).

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

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

WHEREAS, 3 people appeared to speak in favor of the application, and 1 person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 9, 2006
2. Site Plans
3. Correspondence received in support of the project:
 - a. Kilburn & Shirley Roby, 1521 Hillcrest Road, SB, CA 93103
4. Correspondence received in opposition to the project:
 - a. Susette & Winford Naylor

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

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

A. **Modification To Allow A Wall That Exceeds 3½ Feet In Height To Be Located Within 10 Feet Of The Front Lot Line (SBMC §28.87.170)**

In order to approve the requested Modification, the Planning Commission must be able to find that it meets the intent and purpose of the Ordinance and is necessary to: 1) secure an appropriate improvement to the lot; 2) prevent unreasonable hardship, or; 3) promote uniformity of improvement on the site. The required findings to allow a wall that exceeds 3½ feet in height to be constructed within 10 feet of the front lot line can be made because, the width of Mission Ridge Road is approximately 30 feet, there is landscaped right-of-way between the road and the property of approximately 30 feet, the visibility of the wall from Mission Ridge Road is minor as the property slopes downward from the road and the wall does not obstruct visibility of vehicular traffic.

B. **Neighborhood Preservation Ordinance (SBMC §22.68.060)**

The project's mass, bulk, and scale must be found compatible with the neighborhood, the project's grading must be found to be appropriate, and the project must protect, to the extent possible, mature or native trees and public views. Therefore, the project outlined in Option B can be found consistent with the following NPO Findings:

1. The public health, safety and welfare will be protected because the project will be designed structurally and with appropriate erosion control measures as required by the Building and Safety Division.
2. The grading and development will be appropriate to the site, have been designed to avoid visible scarring, and will not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside. The area of grading for the rear wall that has been approved was on the south side of the site behind the dwelling and the area of grading for the demolition of the swimming pool is on the south side of the site behind the dwelling. To reduce the wall and visibility of the wall from below; additional landscaping is required. The grading for the front wall is on the north side of the property abutting Mission Ridge Road. Landscaping is proposed to replace the landscaping removed from the public right-of-way to restore the consistency of the scenic character of the neighborhood and to help screen the wall from view. Option B also proposes grading to somewhat re-create the original condition of the topography on the street frontage side of the property
3. The project will, to the maximum extent feasible, preserve and protect any native or mature trees within a minimum trunk diameter of four inches measured four feet from the base of the trunk. No trees on the property are proposed to be removed as part of the project and oak tree and tree protection measures will be implemented as a condition of approval for the project. Landscaping that has

already been removed from the public right-of-way is to be replaced as shown on the proposed landscape plan for the project.

4. The development will be consistent with the scenic character of the City and will enhance the appearance of the neighborhood. The wall is of a high quality and the proposed landscaping will replace landscaping removed from the public right-of-way to restore the consistency of the scenic character of the neighborhood. Additionally, landscaping will be required below the rear wall.
5. The development will be compatible with the neighborhood, and its size, bulk, and scale will be appropriate to the site and neighborhood.
6. The development will preserve significant public scenic views of, and from, the hillside. The project will not have an adverse impact on any public views as the wall height from the Mission Ridge Road side is minimal and the property slopes downward away from the street.

II. Said approval is subject to the following conditions:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be memorialized in a written instrument which shall be reviewed as to form and content by the City Attorney, Community Development Director and/or Public Works Director, executed by Owner and recorded in the Office of the County Recorder by the City:
 1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. 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.
 2. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan as approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
 3. **Allowed Development.** The development of the Real Property approved by the Planning Commission on February 16, 2006 is limited to the improvements shown on the Development Plan for Option B, including the cheek wall, signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 4. **Street Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.

5. **Future House.** Any future house will be a single story house in the Mediterranean architectural style, subject to approval by the Architectural Board of Review, and maintain the view corridor from Franceschi Park.

B. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review (ABR):

1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on a one-for-one basis with a minimum (24-inch box sized) (15 gal. size) tree of an appropriate species or like species.

2. **Tree Protection Measures.** The landscape and grading plans shall include the following tree protection measures:

a. **Fencing.** Fencing or protective barriers around the tree(s) during construction.

b. **Landscaping Under Trees.** Landscaping under the tree(s) that is compatible with the preservation of the tree(s).

c. **Grading Plan Notes.** Notes on the plans that specify the following:

(1) No irrigation systems shall be installed under the driplines of trees.

(2) No grading shall occur under the driplines of the existing trees.

(3) A qualified Arborist shall be present during any excavation adjacent to or beneath the dripline of the trees which are required to be protected.

(4) All excavation within the dripline of the trees shall be done with hand tools.

(5) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.

(6) The trees shall be thinned as needed in accordance with recommendations of a qualified Arborist.

(7) No heavy equipment, storage of materials or parking shall take place under the dripline of the trees.

(8) Any root pruning and trimming shall be done under the direction of a qualified Arborist.

3. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.

4. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler (and irrigation) systems shall be provided in a location screened from public view or included in the exterior wall of the building.

5. **Arborist Report.** The recommendations outlined in the arborist report prepared by Robert Muraoka, M.S., B.S. and dated October 31, 2005 shall be implemented.
6. **Oak Tree Protection Measures.** The following provisions shall apply to oak trees on site:
 - a. Oak trees not indicated for removal on the site plan shall be preserved protected, and maintained.
 - b. During construction, fencing or protective barriers shall be placed around the driplines of all oak trees with driplines within 25 feet of development.
 - c. No grading shall occur under any oak tree dripline except as indicated on the drainage and grading plan for construction of the wall**. Grading within the dripline during construction of this area shall be minimized and shall be done with light (one ton or less) rubber-tired equipment or by hand. If use of larger equipment is necessary within the dripline of any oak, it shall only be operated under the supervision and direction of a qualified Arborist.
 - d. A qualified Arborist shall be present during any grading or excavation adjacent to or beneath the dripline of any oak tree. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound. Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.
 - e. No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.
 - f. Landscaping provided under the oak trees shall be compatible with preservation of the trees as determined by the Architectural Board of Review (ABR). No irrigation system shall be installed under the dripline of any oak tree.
 - g. Oak trees greater than four inches (4") in diameter at four feet (4') above grade removed as a result of the project shall be replaced at a (three to one (3:1)) (five to one (5:1)) (ten to one (10:1)) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
 - h. Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.

7. **Additional Landscaping Below Rear Wall.** Substantial additional landscaping shall be planted below the rear wall to reduce its visibility, including fast-growing shrubs and cascading vines.
 8. **Option B Approved.** Final wall design shall be consistent with Option B, presented to the Planning Commission and shall be faced with sandstone on both sides to grade to match, including cheek wall height reduction.
- C. **Public Works Submittal Prior to Building Permit Issuance.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the issuance of a Building Permit for the project:
1. **Water Rights Assignment.** Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. This assignment of rights shall not include a right of surface entry on or from the Real Property. Said assignment and any related agreements are subject to the review and approval of the City Attorney and the City Public Works Director. Said agreement shall be recorded in the Office of the County Recorder.
 2. **Public Improvement Plans:** Owner shall submit building plan for construction of repair of public improvements along the subject property road frontage on Mission Ridge Road. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards portions of damaged curb along property frontage.
- D. **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. **Contractor and Subcontractor Notification.** All contractors and subcontractors shall be notified in writing of site rules, restrictions and Conditions of Approval.
 2. **Best Management Practices:** The Owner shall apply storm water quality control guidelines to the project per the Public works Department Construction Project Best Management Practices.
 3. **Unanticipated Archaeological Resources Contractor Notification.** 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 associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant.

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.

4. **Soils Report.** A soils report shall be submitted to the Building Division.
5. **Engineered Drainage and Grading Plan.** An engineered drainage and grading plan shall be submitted to the Building Division.
6. **Geology Report.** A geology report prepared by a licensed engineer, geologist or equal and all recommendations incorporated into the construction plans.
7. **Structural Engineer Report.** A report prepared by a structural engineer as required by the Building Official for the wall.
8. **Construction-Related Truck Trips.** Construction-related truck trips 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.) to help reduce truck traffic on adjacent streets and roadways.
9. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Operations Manager.
10. **Haul Routes.** The haul route(s) for all construction-related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Operations Manager.
11. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 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:

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.

When, based on required construction type or other appropriate reasons, it is necessary to do work at night, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in SBMC §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.

12. **Construction Parking/Storage.** 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 Streets, Parking, and Transportation Operations Manager.
 - b. Storage of construction materials within the public right-of-way is prohibited.
13. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.

14. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
15. **Disturbed Soil Stabilization.** After clearing, grading, earth moving and/or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by:
 - a. Seeding and watering until grass cover is grown;
 - b. Spreading soil binders;
 - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind; or
 - d. Other methods approved in advance by the Air Pollution Control District.
16. **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.
17. **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) (and Project Environmental Coordinator's (PEC)) name, contractor(s) (and PEC's) telephone number, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
18. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected and maintained.
19. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
20. **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:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

E. **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, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified Arborist.
2. **New Street Trees.** Provide street trees as shown on the approved landscape plan.

F. **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 APPROVAL TIME LIMITS:

The Planning Commission's action approving the Conditional Use Permit, Modification or Variance shall terminate one (1) year from the date of the approval, per SBMC 28.87.360, unless:

1. A building permit for the use authorized by the approval is sought within twelve months of the approval. An 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.
2. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) one (1) year from granting the approval.
3. The project also includes Neighborhood Preservation Ordinance, in which case the longer approval period shall prevail.

This motion was passed and adopted on the 16th day of February, 2006 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 1 (Jostes) 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.

Julie Rodriguez, Planning Commission Secretary

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.