

DRAFT



## City of Santa Barbara Planning Division

### PLANNING COMMISSION MINUTES

June 18, 2009

#### **CALL TO ORDER:**

Chair Larson called the meeting to order at 1:01 P.M.

#### **ROLL CALL:**

##### **Present:**

Chair Stella Larson

Vice-Chair Addison S. Thompson

Commissioners Bruce Bartlett, Charmaine Jacobs, John Jostes, Sheila Lodge, and Harwood A. White, Jr.

Commissioner Jacobs arrived at 1:04 P.M.

Commissioner Bartlett arrived at 1:10 P.M.

#### **STAFF PRESENT:**

Bettie Weiss, City Planner

John Ledbetter, Principal Planner

Danny Kato, Senior Planner

N. Scott Vincent, Assistant City Attorney

Rob Dayton, Principal Transportation Planner

Barbara Shelton, Project Planner/Environmental Analyst

Michael Berman, Project Planner/Environmental Analyst

Irma Unzueta, Project Planner

Beatriz Gularte, Project Planner

Peggy Burbank, Project Planner

Kathleen Kennedy, Associate Planner

Kelly Brodison, Assistant Planner

Adam Nares, Planning Technician

David Kemnitz, Community Development Intern

Julie Rodriguez, Planning Commission Secretary

**I. ROLL CALL**

**II. PRELIMINARY MATTERS:**

A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

B. Announcements and appeals.

Mr. Kato announced that the Planning Commission's denial of the 436 Corona Del Mar Staff Hearing Officer appeal has now been appealed to the City Council by the appellant and is scheduled to be heard on August 4, 2009. Commissioner Lodge will represent the Commission.

C. Comments from members of the public pertaining to items not on this agenda.

Chair Larson opened the public hearing at 1:04 P.M. and, with no one wishing to speak, closed the hearing.

**III. CONSENT ITEMS:**

**ACTUAL TIME: 1:04 P.M.**

**APPLICATION OF RAYMOND APPLETON, AGENT FOR JOHN SHARRAT, 2215 EDGEWATER WAY, 041-350-014, E-3/SD-3 SINGLE FAMILY AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL/3 UNITS PER ACRE (MST2009-00085/CDP2009-00004)**

Proposal to demolish an unpermitted single-family residence, detached accessory building, and two unpermitted decks and restore landscaping on a 42,127 square foot lot in the Hillside Design District and appealable jurisdiction of the Coastal Zone. The project would abate violations in enforcement case #ENF2008-00353. The chain link fencing has been removed from the bluff. The applicant proposes to leave in place as-built railroad tie and concrete steps that were built on-grade, but has already removed the above ground handrails. The applicant is proposing to allow the fencing and hedges to remain within the public right of way.

The discretionary applications required for this project are:

1. A Coastal Development Permit (CDP2009-00004) to allow the demolition of the as-built structures and permitting of the on-grade stairs, hedges, and fencing on a parcel located within 50 feet of a coastal bluff and within the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44); and
2. A Modification to allow a fence and hedge to exceed 3.5 feet within 10 feet of the front property line.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Demolition of small structures).

Case Planner: Suzanne Johnston, Assistant Planner  
Email: SJohnston@SantaBarbaraCA.gov

Kelly Brodison, Assistant Planner, gave the Staff presentation.

Raymond Appleton, Permit Planners, gave the applicant presentation.

Chair Larson opened the public hearing at 1:21 P.M. and acknowledged correspondence received by Paula Westbury, Laura Bridley, Russell Ruiz, Sam Ryan, and Bruce and Wanda Venturelli.

With no one wishing to speak, the public hearing was closed at 1:21 P.M.

Mr. Vincent provided clarification on why a permit was necessary to remove an illegal structure as defined by the Coastal Act that looks at both development and removal of structures and captures whatever actions might be necessary to remove the building making sure that a review is given that protects Coastal resources.

Staff clarified the request received in correspondence as a 4' fence height as compared with the 6' fence height that is proposed; and stated that enforcement of illegal hedges has been suspended when it does not concern safety issues whereas the current residence intrudes on the public right-of-way. Ms. Brodison provided a status report on the lot line adjustment for the property, and neighborhood zoning for hedge setbacks on this site as being 3.5' high within a 10' setback.

The Commissioners made the following comments:

1. Commissioners Bartlett and Thompson support staff's recommendation and feels that the hedge and fence is intruding the public right-of-way. Commissioner Thompson added that a hedge that is nonconforming should not be allowed.
2. Commissioners Jostes, White, and Larson preferred a 4'hedge. Commissioner White added that the lot is not a secondary front yard.
3. Commissioner Jacobs supports the Coastal Development permit and demolition; concerned with the modification for the hedge and does not see making the findings, public benefit, or necessity. Also felt that any new hedge should meet the zoning requirements. Would only consider a modification when the applicant comes back for a lot merger or lot adjustment that turns the front yard into a side yard or back yard.
4. Commissioner Lodge supported the Coastal Development Permit. Had concerns with the hedge at the property line and would compromise with a height of 5'.

Mr. stated that the owners could not support a 4' hedge due to the slope and could do a 5' hedge as a compromise.

Commissioner White responded to Commissioner Thompson stating that the 4' suggestion came from a neighbor, who is a qualified planner.

**MOTION: Jostes/White**

**Assigned Resolution No. 027-09**

Approved the project, making the findings for a Coastal Development Permit and fence and hedge height modification of 4' as outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report with Staff's recommended revisions to condition C.3.

This motion carried by the following vote:

Ayes: 4 Noes: 2 (Bartlett, Thompson) Abstain: 1 (Jostes) Absent: 0

**MOTION: White/Jostes**

Motion to reconsider the prior action.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Mr. Appleton demonstrated why a 4' fence could not be possible due to the grade and topography. Could compromise with a 5' fence.

**MOTION: Bartlett/Lodge**

**Assigned Resolution No. 027-09**

Approved the Coastal Development Permit for the demolition of the existing as-built structures as outlined in the staff report and grant a modification to allow a fence and hedge within ten feet of the front lot line, at a location of the owner's election, up to a maximum height of five (5) feet or the height of the existing fence located at 2211 Edgewater, whichever is lower; making the findings outlined in the staff report; and subject to the conditions of approval specified in Exhibit A to the staff report with staff's recommended revision to condition C.3.

Ayes: 6 Noes: 1 (Jacobs) Abstain: 0 Absent: 0

Chair Larson announced the ten calendar day appeal period.

IV. **STAFF HEARING OFFICER APPEAL:**

**ACTUAL TIME: 1:47 P.M.**

**APPLICATION OF BRENT DANIELS, AGENT FOR CYNTHIA HOWARD, 226 & 232 EUCALYPTUS HILL DRIVE, APN 015-050-017 & 015-050-018, A-2, ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWO UNITS PER ACRE (MST2004-00349)**

This is an appeal of the denial of the project by the Staff Hearing Officer. The proposed project involves a lot line adjustment between two parcels (2.82 and 2.75 acres in size) by realigning the dividing lot line from a north-south direction to an east-west direction, and resulting in two parcels of 2.47 acres (Parcel 1, upper parcel) and 3.10 acres (Parcel 2, lower parcel). Parcel 1 would have an average slope of 21.3% and Parcel 2 would have an average slope of 22.5%, both parcels sloping north to south. An existing single-family residence, greenhouse foundation, and hardscape driveway would be removed, and two new single-family residences are proposed on each parcel. Parcel 1 would include a 6,129 square foot residence with an attached 743 square foot garage, and a 1,517 square foot residence with a 320 square foot garage, and a detached 430 square foot garage. Parcel 2 would include a 3,927 square foot residence with an a 747 square foot attached garage, and a 1,786 square foot residence with a 352 square foot subterranean garage. The project site is currently accessed from Eucalyptus Hill Drive, a private road, by an existing unimproved driveway which extends to the southern portion of the properties. This driveway would be improved to facilitate access to the proposed lower parcel, via an easement though the upper parcel. The total grading quantities proposed for the development of both parcels include 3,090 cubic yards of cut and 2,830 cubic yards of fill.

The discretionary applications required for this project are:

1. Lot Line Adjustment to allow adjustment of the property line between two existing parcels (SBMC§27.40);
2. Street Frontage Modifications to allow less than the required 100 feet of frontage on a public street for each parcel (SBMC§28.15.080); and
3. Performance Standard Permits to allow an additional dwelling unit on each parcel (SBMC§28.93.030.E).

The Planning Commission will consider adoption of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

Case Planner: Kathleen Kennedy, Associate Planner  
Email: [KKennedy@SantaBarbaraCA.gov](mailto:KKennedy@SantaBarbaraCA.gov)

Kathleen Kennedy, Associate Planner, gave the Staff presentation.

Bettie Weiss, City Planner, gave the Staff Hearing Officer presentation.

Brent Daniels, L & P Consultants, gave the applicant presentation and introduced his team: Cristi Fry, Civil Engineer, Triad/Holmes Associates; Lane Goodkind, Landscape Architect; Allan McCloud, Architect, Shubin and Donaldson Architects, Inc.; and Kathleen Weinheimer, Attorney.

Chair Larson opened the public hearing at 2:24 P.M.

The following people spoke in support of the appeal:

1. Clay Tedeschi
2. Teha Eliassen
3. Steve Bollinger

The following people spoke in opposition to the appeal:

1. John Manning, neighbor, is opposed to the project and expressed concerns regarding the lot line adjustment, increased development potential, amount of cut and fill, and removal of eucalyptus trees
2. June Sochel, neighbor, expressed concerns regarding grading of the hillside, soil instability and drainage.
3. Tony Vassallo, neighbor, expressed concerns similar to those submitted as written comments.
4. Caroline Vassallo, neighbor, expressed concerns similar to those submitted as written comments.
5. Ernie Salomon, neighbor, expressed concerns regarding flooding, slides, and land movement and suggested that the water from the proposed project be piped into the north-side creek which runs parallel and runs west of Woodland Drive.

With no one else wishing to speak, the public hearing was closed at 2:46 P.M.

Staff responded to the Planning Commission question about the adoption of the Mitigated Negative Declaration (MND) stating that it was not necessary to adopt the MND if the project was not being approved. Ms. Weiss stated that she did not have any issues with the MND, and although she was concerned about the drainage, it does not rise to a level of significance.

Mark Wilde, Supervising Engineer, Public Works, explained that the standard condition has been included so that there will be no increase in flows to Woodland Drive up to a 25 year storm. The proposed condition goes beyond the standard in proposing a potential installation of an 18" storm drain that meets up with the existing 36" storm drain. If this project is approved, Engineering staff can work with Building and Safety Staff to obtain a design that will satisfy the requirements and concerns of the public, without having any damage to their properties, up to a 25 year storm.

Mr. Vincent explained the differences between a lot line adjustment and subdivision and why a lot line adjustment is appropriate for the project. He also answered the question concerning the City's policy about the number of lots using a private drive, stating that a waiver would be needed for more than four lots; however, in this case, a waiver would not apply since the number of lots would remain the same.

Ms. Fry stated that Woodland Drive could handle 60 cubic feet per second (cfs) and that the project is only proposing 7.9 cfs. She added that the actual location of the 4' wide and 1' high concrete swale has not been determined but that it will be in the area identified on the map by a yellow line, and would not require much landscape screening from down below.

Mr. Daniels stated that, per the City's ordinance, each of the four homes could have 500 square feet of accessory structures.

The Commissioners made the following comments:

1. Commissioner Jacobs had a concern with the proposed density and the size of the additional residences.
2. Commissioners Jostes and Lodge had concerns regarding drainage, density, the number of garages, and cannot support the street frontage modification.
3. Commissioner White could not support the project and wondered if the applicant would still want a lot line adjustment with two houses on the property instead of four.
4. Commissioner Bartlett summarized his recollection of the project's history at the ABR and stated that the applicant has gone far and above what is technically required and can support the project and requested modifications.
5. Commission Thompson stated that the City has got to get a better handle on private streets seeking public street frontage waivers. He stated that fire safety has been improved with the removal of hazardous vegetation and that he agrees with the Staff recommendation and supports the project as proposed.
6. Commissioner Larson agrees with Commissioners Bartlett and Thompson, but remains concerned with the density.

Staff acknowledged the Planning Commission's discretion to approve the performance standard permit. Ms. Weiss added that there is adequate ingress and egress and lot area for this project.

Mr. Daniels stated that the lot line adjustment would not increase the allowable density onsite.

**MOTION: Bartlett/Thompson**

Upheld the appeal to adopt the Mitigated Negative Declaration (MND), recommend approval of the street frontage modification, lot line adjustment, performance standard permits, and include revised condition of approval as proposed by the applicant in D.6., including requirement for 500 linear feet of storm drain.

This motion failed by the following vote:

Ayes: 3 Noes: 4 (Jostes, White, Jacobs, Lodge) Abstain: 0 Absent: 0

The motion failed.

Commissioner White remained concerned with the density and needed to see less development on the site.

Ms. Weinheimer stated that a continuance, rather than a denial, would be preferred and cautioned that if the parcels are merged, four houses could still be allowed to be built there.

**MOTION: Jostes/White**

Continued to July 23, 2009

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Chair Larson called for a recess at 3:29 P.M. and reconvened the meeting at 3:48 P.M.

V. **DISCUSSION ITEM:**

**ACTUAL TIME: 3:48 P.M.**

**PLAN SANTA BARBARA WORK SESSION (DISCUSSION ITEM)**

This work session will focus primarily on the Land Use and Growth Management Element which updates the existing Land Use (General Plan) Element. Prefatory to that discussion, staff will present an overview of the proposed General Plan framework document to review the format for the proposed General Plan and provide context for the Land Use and Growth Management Element. The discussion of the proposed Land Use and Growth Management Element will focus on the disposition of policies in the existing Land Use Element; which policies are recommended to be retained as is, retained but revised, moved to another more appropriate element, or deleted. Additionally, a brief update will be given on revisions to the Land Use Map. Any public comment on these items as well as the EIR process to date will be welcome.

This is a Planning Commission discussion item, including a staff presentation, public comment, and Commission discussion. No Commission action will be taken on *Plan Santa Barbara*.

Case Planner: John Ledbetter, Principal Planner  
Email: JLedbetter@SantaBarbaraCA.gov



John Ledbetter, Principal Planner, gave the Staff presentation, joined by Beatriz Gularte, Project Planner, and Bettie Weiss, City Planner.

Staff responded to the Commission's request for an existing land use map and will make the map available.

Staff answered the Planning Commission's questions about how it will attempt to rectify land use designation changes with existing general plan zoning. Ms. Weiss noted that while there are many institutional icons on the map, there has been very limited institutional zoning permitted in the city and it is not proposed as part of this process. Most all public facilities and quasi-public facilities are permitted through Conditional Use Permits.

Staff further stated that neighborhoods will be involved with notification that their property may be affected by rezoning, and that neighborhood outreach will be done before the map returns to the Planning Commission.

The Commissioners made the following comments:

1. Commissioner Jacobs suggested use of a Conditional Use Permit, to address major zone changes in neighborhoods so that people can learn more about their neighborhood. Colors on the map are not easy to grasp and there will be a learning curve for the public gaining awareness of their neighborhood.
2. Commissioner Jostes commented that, he continues to find the progress frustrating. Acknowledged the Land Use mapping is good, but remains gravely concerned with the Environmental Review process.
3. Commissioner Larson expressed a preference for a separate Historic Resources Element.

Ms. Weiss reminded the Commission that the Historic Resources Element will be combined with the Community Design Element after a vote of the Commission on a previous occasion.

Chair Larson opened the public hearing at 4:44 P.M.

The following people provided public comment:

1. Dr. John Acherman expressed interest in public health and the Environmental Impact Report (EIR) process. Following results of Dr. McGowan's research, he has been interested in the possible danger of antibiotic resistant organisms in water. Concerned with the use of water and land use and what the EIR is evaluating. Recommended looking at new technologies that can look at water use for golf courses, lawns, and the quality of drinking water.
2. Dr. Ed McGowan submitted prior written comment and expressed concern that if something is not done to correct the process in the water delivery of reclaimed water from the city's sewer plant that showed bacteria present resistant to 12 antibiotics, that we could be sitting on a potential pandemic.

3. Connie Hannah, Santa Barbara League of Voters, read and submitted written comment. Opposes the removal of the language “living within our resources” from the General Plan Land Use Element. Concerned with diminishing water supplies and traffic impacts.
4. Jean Holmes, Allied Neighborhood Association, commented in opposition to the proposed language changes in the Land Use Element, Referenced page 1 of Exhibit C, and urged to maintain the established character of the City. Opposes the recommendation on page 3 of Exhibit C restricting the low-density to single family residential only and asked that the existing wording be retained.
5. Cathie McCammon, Citizens Planning Association, inquired about the map viewing options and availability to the public. Requested the next meeting accommodate the public and be heard first. Inquired when Exhibit E would be discussed. Concerned with “Living Within Our Resources” goal in the Land Use & Growth Management Goal. The General Plan goal language should be clear, understandable and straight forward.
6. Peter Hunt, American Institute of Architects (AIA), submitted written comment and would like to see a more holistic, global look at the City. Suggested showing a photograph, such as the one in City Council Chambers, that could show the topography and street grids and how they connect to better view land use. The Draft Policy Preferences Report needs to identify what policies identify with what neighborhoods. “New Urbanism” cannot be adopted, but can be adapted to our city. Spoke about sectors that impact our city and should be recognized by the report, such as tourism and industrial areas. Mr. Hunt would like to present ideas and findings by the AIA that are not in the Staff Report.
7. Paul Hernadi, Citizens Planning Association (CPA), read and submitted written comments. Noted that adaptive management was not included in the Staff Report. Urged that the adaptive management program and S-D-2 Ordinance be included.
8. Mary Louise Days, CPA, spoke about the institutional icon removal from the maps. Encouraged that the Downtown/Waterfront Vision Report is being used in this General Plan update. CPA will be watching the Outer State Street neighborhood carefully. Neighborhoods need more information on what Mobility Oriented Development Areas (MODAs) will do to their neighborhoods. CPA will look closely at rewritten neighborhood descriptions and their purpose.

Ms. Days responded to the Commission’s question regarding the proposed combination of Historical Resources with Design Review by stating that historic preservation and the history of Santa Barbara should permeate all the elements and goes hand in hand with design.

With no one else wishing to speak, the public hearing was closed at 5:17 P.M.

Commissioner’s Comments:

1. Commissioner White suggested Staff make the maps available on a CD and on the website.

2. Commissioner Jostes acknowledged that Staff has done a good job on the land use map and adaptive management plan, but gets off track when trying to develop a policy document while the public wants details, such as in the Land Use Map. Need to highlight the role of the City in the regional context and broad policy levels in the Land Use and Growth Management Element that will tie into Climate Action Plan. Hoped that the policy drivers would have a stronger role and believes process has regressed if it has separate elements. Concerned that EIR process is going to consume so much time driven largely by complexity. The May 8th Staff Report did not answer the Planning Commission's and public's questions about what the EIR would answer. Losing confidence that the process is taking so long and feels that the EIR and General Plan process needs to change and become more responsive to the community.
3. Commissioner Bartlett thanked Staff for being part of the general plan update process and appreciated that Staff provided maps. Would still like to see the maps include existing land use patterns as they have developed and volunteered to assist Staff. Concerned with how the MODA diagram is being developed; does not feel that maps should be split down the middle of a street, but suggested that they include at least all lots facing the street and keep as a cohesive neighborhood. Buffer areas need a lot of attention, such as an increase of residential density adjacent to commercial, or more mixed use or live/work. As part of adaptive management need to monitor jobs/housing imbalance, but concerned that not having resource availability become the planning tool like it was in Goleta, or a planning tool to stop growth. Would like to see economy played stronger in the goals with implications shown. Suggested that the General Plan wording be worded in the positive, with incentives, and guidance of where we want to go as far as change. Noted that the parts of Santa Barbara that are most successful happened before the existence of a General Plan.
4. Commissioner Lodge stated that the General Plan in 1964 had a concept of Santa Barbara as a very special place and that needs to be carried forward. Appreciated that the Downtown/Waterfront Study is being utilized. Suggested that the second bullet in Exhibit B, LG11b, include "and/or" because projects need open space on site to be livable. Concurs with maintaining the established character of Santa Barbara as stated in Exhibit C, page 3. The goal of "Maintain Unique Desirability" should be included in the Land Use and Growth Management Element; because more than design that makes up Santa Barbara. The first goal listed in Exhibit C, Page 5 that ends "before the end of this century" needs to be updated with a new goal date; also should be included in Historic Resources and Community Design Element, not just the Public Safety Element.
5. Commissioner White concurred with the Commission's frustration on the delay. Worried that "Trends and Issues" work will become part of the Historic Element by the time it is completed. Noted that bus transportation routes between the breakwater and the zoo are not included in the MODA. Sees the economic health of the city as tourism and the option to live here by people who can choose to live anywhere. Noted that La Cumbre information presented by AIA will be useful when describe this area of Upper State.

6. Commissioner Jacobs thanked the Staff for organizing the report in a user-friendly format and appreciated receipt of the map and all that was involved in producing the map. Questioned the tedious work of the map; becoming very technical with a loss of vision of the character of the city and what the current planning process was looking for in the one page vision document. Address Transfer of Existing Development Rights (TEDR) in the update. Address how the Redevelopment Agency (RDA) has worked and what will replace it. Suggested the “Provide Safe and Convenient Transportation” goal on Page 2 of Exhibit C include the MODA. Suggested that the third and fifth goals listed on Page 4 of Exhibit D stay in the Land Use Element.
7. Commissioner Thompson thought the working outline is generally OK; a single document containing all the elements is excellent. Staffs intention of being concise is supported, however the wording in the Table of Contents make it appear that it will not be concise. Questioned why it was necessary to have the Conditions, Trends, and Issues in the introduction, as opposed to just a reference of the CTI report. Suggested referencing reports as opposed to including them in the document. Noted that State law mandates what elements are required in the General Plan, yet three are buried within other elements. Review organization of how they are titled so that they are compliant with State law. Suggested further review of the wording on including Hope Ranch and Montecito in the City’s sphere of influence; appears conflicting. Suggested wording of first goal in Exhibit D, page 2 read “Ensure Strong Economy Policies”. Page 3, Exhibit D, does not support a need to eliminate vehicular traffic on State Street or a name change (Page 4, Exhibit D). Echoed concern with the General Plan Update delays.
8. Commissioner Larson concurred with many of the comments made by the Commission.

Mr. Ledbetter explained that the State allows flexibility in how the required elements are organized; as long as you document where the seven elements are located.

Ms. Weiss stated that the American Institute of Architects (AIA) had conducted a workshop adjacent to La Cumbre Plaza and provided the workshop summary to Staff who reviewed it during the Upper State Street Study. It will be helpful when the Upper State Street neighborhoods are described.

## **VI. ADMINISTRATIVE AGENDA**

### **ACTUAL TIME: 6:05 P.M.**

#### **A. Committee and Liaison Reports.**

1. Commissioner Jacobs reported that she and Commissioners Bartlett and Lodge attended the Architectural Board of Review (ABR) meeting to hear their comments on the Upper State Street Design Guidelines. Three ABR members were selected to review the Guidelines with the subcommittee of Planning Commissioners.

- B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

Commissioner Larson reported on the Staff Hearing Officer meeting held on June 17, 2009.

- C. Action on the review and consideration of the following Draft Minutes and Resolutions **Continued from June 4, 2009:**

- a. Draft Minutes of April 16, 2009
- b. Resolution 012-09  
124 Las Agujas Avenue
- c. Resolution 013-09  
2515 Medcliff Road
- d. Resolution 014-09  
1109 Luneta Place

**MOTION: Thompson/Jostes**

Approve the minutes and resolutions as corrected.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 2 (Bartlett, Jacobs) Absent: 0

**VII. ADJOURNMENT**

Chair Larson adjourned the meeting at 6:12 P.M.

Submitted by,

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Julie Rodriguez, Planning Commission Secretary



# City of Santa Barbara California

**DRAFT**

## CITY OF SANTA BARBARA PLANNING COMMISSION

**RESOLUTION NO. 027-09**

**2215 EDGEWATER WAY**

**COASTAL DEVELOPMENT PERMIT, MODIFICATION**

**JUNE 18, 2009**

**APPLICATION OF RAYMOND APPLETON, AGENT FOR JOHN SHARRAT, 2215 EDGEWATER WAY, 041-350-014, E-3/SD-3 SINGLE FAMILY AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL/3 UNITS PER ACRE (MST2009-00085/CDP2009-00004)**

Proposal to demolish an unpermitted single-family residence, detached accessory building, and two unpermitted decks and restore landscaping on a 42,127 square foot lot in the Hillside Design District and appealable jurisdiction of the Coastal Zone. The project would abate violations in enforcement case #ENF2008-00353. The chain link fencing has been removed from the bluff. The applicant proposes to leave in place as-built railroad tie and concrete steps that were built on-grade, but has already removed the above ground handrails. The applicant is proposing to allow the fencing and hedges to remain within the public right of way.

The discretionary applications required for this project are:

1. A Coastal Development Permit (CDP2009-00004) to allow the demolition of the as-built structures and permitting of the on-grade stairs, hedges, and fencing on a parcel located within 50 feet of a coastal bluff and within the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44); and
2. A Modification to allow a fence and hedge to exceed 3.5 feet within 10 feet of the front property line.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Demolition 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, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 11, 2009
2. Site Plans
3. Correspondence received in support of the project:
  - a. Laura Bridley, via email

- b. Bruce and Wanda Venturelli, via email
- c. John Thorngren, via email
- d. Sam Rya, via email
4. Correspondence received in opposition to the project:
  - a. Russell Ruiz, via email
  - b. Paula Westbury, Santa Barbara

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

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

**Fence and Hedge Height Modifications (SBMC §28.87.170 and §28.92.110.A.20)**

The modification to allow a fence and hedge to exceed 3.5 feet in height within 10 feet of the front property line are consistent with the purpose and intent of the Zoning Ordinance, and are necessary to secure an appropriate improvement. The property frontage acts a secondary front yard for the adjacent lot owned by the same property owner and allows the owner to secure the vacant lot at the top of the lot.

**Coastal Development Permit (SBMC §28.44)**

With the removal of the fence, gate and hedge in the public right-of-way, and the approval of a modification to allow the installation of a fence and hedge exceeding 3.5 feet at the property line, 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 because the demolition of the bluff top structures would be compatible with the existing neighborhood, would restore natural bluff top vegetation and appearance, would not impact views from public view corridors, would not impact public access, and would improve safety or drainage hazards on the site and is not located on an archaeologically sensitive site, as described in Section V.B. of the Staff Report.

- II. Said approval is subject to the following conditions:

- A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied

1. **Public Right of Way.** The existing improvements within the public right of way are to be removed (i.e.; gate, fencing, flat work, and hedges shall be relocated from the public right-of-way onto private property.
2. **Hedge.** The relocated or replacement, if transplanting is not possible, shall be maintained at a height not to exceed 6-5 feet or the height of the existing fence located at 2211 Edgewater Way, whichever is lower, within 10 feet of the front property line and should be a species that is appropriate for bluff top plantings.

3. **Fence and Gate.** The relocated or replacement fence shall not exceed 6-5 feet or the height of the existing fence located at 2211 Edgewater Way, whichever is lower, within 10 feet of the front property line.
  4. **Appropriate Plants on Bluff.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the bluff and sloped areas. All existing succulent plants that add weight to the bluff and/or contribute to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion.
  5. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the bluff edge shall be kept to the minimum necessary for plant survival. The drip system along the bluff edge shall be removed after one full season of plant growth.
- B. **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, 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 Planning Commission on June 18, 2009 is limited to the -demolition of an unpermitted single-family residence, a detached accessory building, and two unpermitted decks, the removal of an as-built six foot tall chain link fence and overheight hedge from the public right-of-way. The approval includes - permitting as-built on-grade steps, permit improvements on private property to be located within 10 feet of the front property line including as-built a five-foot tall fence with gate and a hedge that are to be no higher than the existing wall on the on adjacent property at 2211 Edgewater Way, the restoration of bluff top landscaping- and the improvements shown on the site and landscape plans signed by the chairman of the Planning Commission 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 Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
  4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any



reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:

5. **Coastal Bluff Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from waves during storms and erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
  6. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
- C. **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. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way (easement).
  2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
  3. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager.
- D. **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.
  2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
- E. **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. **Conditions on Plans/Signatures.** The final Planning Commission 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.

- F. **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. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.

2. **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 Manager.
3. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
4. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
5. **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 31 <sup>st</sup>
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.

6. **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.
7. **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.
  8. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
  9. **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.
  10. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
  11. **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(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
  12. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
  13. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

14. **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 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.

- G. **Prior to Final Inspection.** Prior to final inspection of the building Permit, the Owner of the Real Property shall 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.
- H. **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 18th day of June, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 6 NOES: 1 (Jacobs) 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

\_\_\_\_\_  
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.