



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 006-09

28 W. CABRILLO BOULEVARD

COASTAL DEVELOPMENT PERMIT; DEVELOPMENT PLAN

MARCH 5, 2009

APPLICATION OF CRAIG SHALLANBERGER, ARCHITECT FOR ROMASANTA FAMILY TRUST, 28 W. CABRILLO BLVD, APN 033-102-002, HRC-1/SD-3 ZONES, GENERAL PLAN DESIGNATION: HOTEL & RELATED COMMERCE I (MST2008-00401 / CDP2009-00003)

The proposed project involves construction of a 170 square foot single-story pool house building; landscape and hardscape changes; and archaeological monitoring during ground disturbance. Total grading includes 15 cubic yards of cut and 5 cubic yards of fill with 10 cubic yards of export. The discretionary applications required for this project are:

1. A Coastal Development Permit to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060); and
2. A Development Plan to allow the construction of 170 square feet of nonresidential development from the Small Addition category (SBMC §28.87.300).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303.

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, February 23, 2009
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. 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:

A. **Coastal Development Permit (SBMC §28.44.150)**

1. The project is consistent with the policies of the California Coastal Act; and

As shown in Section V.B of the Staff Report, the proposed project is consistent with the policies of the California Coastal Act.

2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.

The proposed project is consistent with the City's Local Coastal Plan including the applicable policies of the Coastal Land Use Plan as demonstrated in Section V.B, and all Zoning Ordinance regulations, as shown in Section IV.B of the Staff Report.

B. Development Plan (SBMC §28.87.300)

1. The proposed development complies with all provisions of the Zoning Ordinance.

As shown in Section IV.B of the staff report, the proposed project would comply with all provisions of the Zoning Ordinance, including setbacks, height, and parking.

2. The proposed development is consistent with the principles of sound community planning.

The proposed building and use are consistent with surrounding uses and the City's General Plan and the Local Coastal Plan as shown in Section V.B. The project is therefore consistent with the principles of sound community planning.

3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood.

As indicated by HLC, the project is diminutive and appropriate to the project's location. The development is therefore, not expected to have a significant adverse impact on the neighborhood's aesthetics or character.

4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock.

The 170 square foot non-residential building is not expected to have a potential adverse impact upon City and South Coast affordable housing stock, because it merely provides an amenity for existing hotel guests, and does not generate housing demand in and of itself.

5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources.

All public services and required utilities, including water, are available to serve the project. Provision of water resources for the project would not have a significant unmitigated impact on the City's water resources.

6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic.

The proposed project does not have the potential for significant adverse impact on the City's traffic, because it merely provides an amenity for existing hotel guests, and does not generate traffic in and of itself.

7. Resources will be available and traffic improvements will be in place at the time of project occupancy.

No traffic improvements are required or proposed.

II. Said approval is subject to the following conditions:

- A. **Design Review.** The project is subject to the review and approval of the Historic Landmarks Commission (HLC). HLC shall not grant preliminary approval of the project until the following Planning Commission land use condition has been satisfied.
 1. **Overhead Utility.** The overhead electrical service in the pergola shall be concealed from public view in a suitable manner.
- 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 March 5, 2009 is limited to a 170 square foot pool house building, landscape and hardscape changes, site work, archaeological monitoring and the improvements shown on the plan set signed by the chair of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. 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 HLC, the owner is responsible for its immediate replacement.
- C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
 1. **Archaeological Monitoring Contract.** A draft contract with the archaeologist from the most current City Qualified Archaeologists List shall be reviewed and approved by the Environmental Analyst and proof of final contract approval and execution shall be submitted prior to issuance of any building permit. Said contract shall provide, at a minimum, the following:
 - a. A qualified archaeologist and a Native American representative descended from site inhabitants shall be present during all ground

- disturbing activity, including but not limited to, grading, excavation, brush removal and ground clearance and removal of pavement and vegetation
- b. The contract shall clearly state that the archaeologist and/or Native American monitor shall have the authority to halt construction.
 - c. In the event that prehistoric or historic features, artifacts or other remains are encountered, all work in the area of the find shall be halted until the nature and significance of the find can be determined and the Environmental Analyst shall be notified.
 - d. If the findings from discoveries made during construction are potentially significant, a Phase 3 recovery program shall be prepared and accepted by the Environmental Analyst and the Historic Landmarks Commission. That portion of the Phase 3 program which requires work on-site shall be completed prior to continuing construction in the affected area.
 - e. If significant cultural deposits are found, standard laboratory procedures shall be followed and the resulting collection shall be housed at the Santa Barbara Museum of Natural History. A final report on the results of the archaeological monitoring shall be submitted to the Environmental Analyst within 180 days of completion of the monitoring and prior to the issuance of the Certificate of Occupancy.
 - f. Removal of rootballs from trees or shrubs and other organic material shall be performed by hand and monitored by the archaeologist and Native American monitor.
 - g. All construction activities associated with the removal of existing utility lines and construction for new utility lines shall be monitored by the archaeologist and Native American monitor.
 - h. The Environmental Analyst shall have the authority to resolve any disputes which may arise between the archaeologist, the Native American representative and the General Contractor or owner.
 - i. The archaeologist will be responsible for monitoring daily activities and maintaining contact with the Owner(s), the Environmental Analyst and the public. Monitoring of compaction tool uses shall be carried out as part of the archaeologist's contract.
 - j. If the discovery consists of possible human remains, the Owner shall contact the Santa Barbara County Coroner immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. Work in the area may only proceed after the Planning Division grants authorization.

k. Costs which result because of any delays due to archaeological findings and investigation shall be borne by the owner and/or construction contractor.

D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Historic Landmarks Commission, outlined in Section A above.
2. **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.

E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **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 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:

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

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

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

3. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
- 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.
 - 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.
 4. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 5. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 6. **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.
- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to issuance of the Certificate of Occupancy.
- G. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which

acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense

NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

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

This motion was passed and adopted on the 5th day of March, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

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

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.