



City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

April 16, 2015

CALL TO ORDER:

Chair Thompson called the meeting to order at 1:03 P.M.

I. ROLL CALL

Chair Addison Thompson, Vice-Chair John P. Campanella, Commissioners Jay D. Higgins, Mike Jordan, Sheila Lodge, June Pujo, and Deborah L. Schwartz.

STAFF PRESENT:

Allison De Busk, Acting Senior Planner
N. Scott Vincent, Assistant City Attorney
Kelly Brodison, Assistant Planner
Tony Boughman, Assistant Planner
Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

A. Action on the review of the following Draft Minutes and Resolutions:

1. Draft Minutes of April 2, 2015

MOTION: Lodge/Jordan

Approve the minutes as corrected.

This motion carried by the following vote:

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

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

None.

C. Announcements and appeals.

None.

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

Chair Thompson opened the public hearing at 1:09 P.M. and, with no one wishing to speak, closed the hearing.

III. **NEW ITEMS:**

ACTUAL TIME: 1:09 P.M.

A. **APPLICATION OF PETER HILGER, APPLICANT FOR AT&T, CITY RIGHT-OF-WAY ADJACENT TO 3139 CLIFF DRIVE, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL, ONE DWELLING UNIT PER ACRE (MST2013-00117)**

The proposed project involves the replacement of an existing microcell site with a full cellular antenna site for AT&T. The existing 12-inch panel antennas located on the existing wood utility pole in the public right-of-way will be replaced with four larger 4-foot by 15-inch panel antennas on new eight-foot cross arms. The project includes new equipment in an existing underground vault. The discretionary applications required for this project is a Conditional Use Permit to allow the installation of cellular telephone antennas (SBMC §28.94.030.DD).

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

Contact: Tony Boughman, Assistant Planner
Email: TBoughman@SantaBarbaraCA.gov Phone: (805) 564-5470, ext. 4539

Tony Boughman, Assistant Planner, gave the Staff presentation.

Peter Hilger, Applicant, gave the Applicant presentation on behalf of AT&T.

Howard Wittausch, Architectural Board of Review (ABR), gave a short summary of aesthetic issues, and why the ABR could not make the 'no visual impact' finding to approve the project. Asked that the Commission consider adding to the Conditions of Approval that the bollards be painted Malaga Green with yellow reflective stripes, and requested that landscaping be added to the barren area.

Chair Thompson opened the public hearing at 2:19 P.M.

Gil Barry, neighbor, submitted a written letter to the Commission with concerns about non-compliance with the Coastal Act, expressed that the project should not be approved in this scenic location, and should be located at another site. Believes there is a miscalculation in the size of the arm given all dimensions required for clearance and panel size; brought in a mock-up of the panels and arm.

With no one else wishing to speak, the public hearing was closed at 2:25 P.M.

Straw Poll on colors:

Approve Staff's recommendation with two revisions:

- Provide comments to the Architectural Board of Review (ABR) to consider painting all equipment to blend in with the surroundings.
- Provide a recommendation to ABR to change the color of the bollards to blend in with the surroundings, within what is allowable by City Public Works standards.

Ayes: 3 Noes: 4

MOTION: Jordan/Pujo

Approved the project, making the findings for the Conditional Use Permit, as outlined in the Staff Report dated March 5, 2016, and forwarding the Commission's comments to the Architectural Board of Review, and subject to the Conditions of Approval in Exhibit A of the Staff Report, with the following revision to the Conditions of Approval:

1. Add condition that the Applicant report back to Staff every five years on any improvements in technology and the possibility of reducing the size of antennas.

Commissioner Higgins suggested that the language of the added condition be changed such that it is a City or public driven process to initiate a replacement of the antenna when technology improves. Commissioner Schwartz concurred and added that she would prefer a City-initiated process rather than industry-initiated process

Motion failed after Commissioner Pujo retracted seconding the motion as amended.

MOTION: Jordan/Schwartz

Assigned Resolution No. 005-15

Approved the project, making the findings for the Conditional Use Permit, as outlined in the Staff Report, dated March 5, 2016, and forwarding the Commission's comments to the Architectural Board of Review, and subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revision to the Conditions of Approval:

1. Add condition that if the City or a member of the public brought forth any advances in technology that would reduce visual impacts of the installation, then the City will ask the Applicant to review the technology to see if it could be applied to this site.

This motion carried by the following vote:

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

Commissioner Pujo noted that she supported the motion in concept, but still has concerns with the added condition language.

Staff has agreed to inform the Architectural Board of Review of the Commission's individual comments on painting, bollards, and landscaping.

Chair Thompson announced the ten calendar day appeal period.

Chair Thompson called for a recess at 3:20 P.M. and reconvened the meeting at 3:32 P.M.

ACTUAL TIME: 3:32 P.M.

B. APPLICATION OF BARRY WINNICK, ARCHITECT FOR GLENNIS AND JIM MALCOLM, 1427 SHORELINE DRIVE, APN 045-185-003, E-3/SD-3 (ONE FAMILY RESIDENCE AND COASTAL OVERLAY) ZONES, LOCAL COASTAL PLAN LAND USE DESIGNATION: RESIDENTIAL, (FIVE DWELLING UNITS PER ACRE) (MST2014-00136).

The proposed project involves a facade remodel and 1,096 square feet of first- and second-floor additions to an existing 1,152 square-foot, two-story, single-family residence with an attached 366 square-foot two-car garage. The proposal includes conversion of the existing two-car garage into living area, a 350 square-foot first floor addition, a 379 square-foot second floor addition, construction of a new 458 square-foot, two-car carport and attached 149 square-foot storage room, the construction of a total of 901 square feet of deck/patio area, interior remodel work, and additional site work. This proposal will also address violations identified in Zoning Information Report ZIR2011-00013 and enforcement case ENF2010-00744. The proposed total of 2,855 net square feet on a 12,012 square-foot lot is 72% of the maximum floor-to-lot area ratio (FAR).

The discretionary application required for this project is a Coastal Development Permit (CDP2014-00014) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

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

Contact: Kelly Brodison, Assistant Planner
Email: KBrodison@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4531

Kelly Brodison, Assistant Planner, gave the Staff presentation.

Barry Winnick, Architect, gave the Applicant presentation.

Fred Sweeney, Single Family Design Board (SFDB) Chair, was present to answer any of the Commission's questions.

MOTION: Pujio/Schwartz

Assigned Resolution No. 006-15

Approved the project, making the findings for the Coastal Development Permit as outlined in the Staff Report, dated April 9, 2015, subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revisions to the Findings and Conditions of Approval:

1. Change finding A.1. to read:
"The project is consistent with the policies of the California Coastal Act because it does not result in any adverse effects related to coastal resources based on the geology report provided and other known information regarding bluff retreat; existing views of the site from the neighborhood and beach below, and along the ocean to the project site will be protected; the project will not negatively affect any public access to the beach; the proposed addition is located outside of the 75-year seacliff retreat line and does not include high water use plantings or permanent irrigation in that area, as described in Section V.C. of the Staff Report."
2. Add to Condition B.2: Permanent irrigation is prohibited in that area.
3. Change Condition C.2 to replace the word "Minimize" with "Prohibit".
4. Add to Condition C.3: Any watering that is done in that area will be hand-watering only.

This motion carried by the following vote:

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

Chair Thompson announced the ten calendar day appeal period.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 4:20 P.M.

- E. Committee and Liaison Reports
 1. Staff Hearing Officer Liaison Report
 - a. Commissioner Jordan reported on the Staff Hearing Officer meeting of April 15, 2015.
 2. Other Committee and Liaison Reports

- b. Commissioner Schwartz reported on the Water Commission meeting of April 13, 2015.
- c. Commissioner Campanella reported on the Downtown Parking Committee meeting of April 9, 2015.
- d. Commissioner Thompson reported on the Single Family Design Board meeting of April 6, 2015.

V. **ADJOURNMENT**

Chair Thompson adjourned the meeting at 4:27 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary

DRAFT



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 005-15

RIGHT-OF-WAY ADJACENT TO 3139 CLIFF DRIVE

CONDITIONAL USE PERMIT

APRIL 16, 2015

APPLICATION OF PETER HILGER, APPLICANT FOR AT&T, CITY RIGHT-OF-WAY ADJACENT TO 3139 CLIFF DRIVE, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL, ONE DWELLING UNIT PER ACRE (MST2013-00117)

The proposed project involves the replacement of an existing microcell site with a full cellular antenna site for AT&T. The existing 12-inch panel antennas located on the existing wood utility pole in the public right-of-way will be replaced with four larger 4-foot by 15-inch panel antennas on new eight-foot cross arms. The project includes new equipment in an existing underground vault. The discretionary applications required for this project is a Conditional Use Permit to allow the installation of cellular telephone antennas (SBMC §28.94.030.DD).

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 one person appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 5, 2015.
2. Staff Memorandum, April 6, 2015.
3. Site Plans
4. Correspondence received in opposition to the project:
 - a. Gil Barry, Braemar Neighborhood Association, via email

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

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

GENERAL FINDINGS FOR THE CONDITIONAL USE PERMIT (SBMC §28.94.020)

1. *Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan.*

The cellular antenna installation is essential and desirable to the public convenience for both residents and visitors to Santa Barbara and, as discussed in Section VI.B.1 of the staff report, is consistent with applicable policies of the Santa Barbara General Plan.

2. *Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved.*

As discussed in Section VI.B.1 and 2, and Section VII of the staff report, the cell site will not be materially detrimental; the equipment in the underground vault will not emit significant noise and the antennas will not emit radiofrequency radiation above levels established by the Federal Communications Commission.

3. *The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.*

The proposed project will remain in the small area of right-of-way occupied by the existing utility pole and vault. The site is buffered adequately from the surrounding properties by distance and topography.

4. *Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.*

The cellular antenna site is an unmanned facility and does not generate any on-site parking demand other than occasional maintenance visits by AT&T personnel. There is adequate room to park at the site in a turnout on the south side of Cliff Drive.

5. *The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purposes set forth in this title.*

The proposed antennas mounted on the existing utility pole represent an increase in the visible utility infrastructure. Utility poles are not unique to this area and, as discussed in Section VI.B.2, the proposed antenna installation is the minimum size feasible to fill the gap in coverage given existing technology and engineering constraints. The project is consistent with the applicable General Plan policy to protect important public views. The project is generally compatible with the character of the area because it will become a part of the existing utilities which are unscreened and unadorned. The size of the antennas and equipment are not significant in proportion to the existing utilities, and the project has no effect on open space.

ADDITIONAL SPECIFIC FINDINGS FOR ANTENNAS (SBMC §28.94.030.DD.2):

- a. *Shared Use of Support Structure. The applicant had made a good faith effort to demonstrate that no existing or planned support structure, including an antenna tower, is available to accommodate the proposed antenna.*

The proposal is using an existing utility pole as the support structure.

- b. *Site Size. The site is of a size and shape sufficient to provide an adequate setback from the base of the antenna support structure to any property line abutting a residential use.*

Existing residential development in the vicinity is separated from the project by distance, vegetation, and topography. The nearest single family house to the project is approximately 200 feet away. Houses are situated on top of the hills along both sides of this portion of Cliff Drive and are approximately 55 feet higher in elevation than the project site. A drainage channel runs along the south side of Cliff Drive, and the embankments along both sides of the road are heavily vegetated.

- c. *Visual Impact. The project has been reviewed by the Architectural Board of Review. The Board may take action on the location of the antenna(s) on the site, color and size so as to minimize any adverse visual impacts by requiring that the antenna and its supporting structure be designed and placed so as to be as visually unobtrusive as feasible, taking into consideration technical engineering and other pertinent factors.*

As discussed in Section VI.B.2 of the staff report, the ABR found that the antennas and supporting structure had been reduced to be as visually unobtrusive as feasible; however, they were still unable to find No Visual Impact for an unscreened installation at this location. The ABR comments that the pole mounted equipment and conduits should be painted brown to match the existing pole and the existing ground-mounted cabinets at the site should be painted green have been incorporated as conditions of approval to further minimize the visual impacts of the proposal.

- d. *Non-ionizing Electromagnetic Radiation (NIEER) Emissions. Any new transmitters and/or antennas, when combined with existing sources of NIEER emissions on or adjacent to the site and when operating as designed and licensed, shall not expose the general public to ambient radiation emissions which exceed American National Standards Institute (ANSI) C95.1-1992 standard (if the Federal Communications Commission (FCC) rulemaking committee adopts a revised standard, said standard shall apply).*

As discussed in Section VII of the staff report and in the Statement by Hammett & Edison, Inc. dated June 18, 2013, the antennas will not expose the general public to ambient radiation emissions in excess of applicable FCC standards.

II. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
1. Obtain all required design review approvals.
 2. Pay Land Development Team Recovery Fee.
 3. Submit any required agreements (see Written Agreement section).
 4. Submit an application for and obtain a Public Works Permit (PBW) for all proposed construction in the Public right-of-way and complete said construction.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Written Agreement.** The Applicant, AT&T Mobility, shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, indicating the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on March 12, 2015 is limited to the cellular antennas mounted on the existing utility pole and associated equipment in the existing ground vault and related improvements shown on the plans signed by the chair of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Modification of Site.** The design of this installation is a compromise between the City's Architectural Board of Review and AT&T Mobility. The goal of this compromise is to minimize the visual and aesthetic impacts posed by the installation while enabling a functional installation. With this goal in mind, the approved installation constitutes the maximum acceptable size of installation in terms of the horizontal separation away from the utility pole and the vertical length of the antennas from their supporting arm. Any future collocated antennas at this location shall not frustrate the effort to minimize the visual and aesthetic impacts by exceeding the dimensions of the approved installation. In addition, any camouflaging colors or other aesthetic treatments applicable to the approved installation shall be applicable to future collocated installations.
 3. **Discontinuance of Use.** All structures and equipment associated with the cellular facility shall be removed within 30 days of the discontinuance of the use and the site shall be restored by the Applicant to its original pre-development condition.
 4. **Site maintenance.** The equipment and structures shall be maintained in good condition over the term of the permit. This shall include the painting of the equipment on the pole, keeping the project area clean and free of trash accumulation, and the structures free of graffiti.
 5. **Pesticide or Fertilizer Usage near Creeks.** The use of pesticides or fertilizer shall be prohibited within the project area.
 - ~~5-6.~~ **Review of New Technology.** If the City or a member of the public brings forth any advances in technology, that would reduce visual impacts of the installation, then the City will ask the Applicant to review the technology to see if it could be applied to this site
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). All ABR conditions of approval shall be clearly shown and specified on the permit plans.
- D. **Requirements Prior to Permit Issuance.** The Applicant shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **Approved Public Improvement Plans.** Construction work in the Public right-of-way shall be submitted to the Public Works Department for review and approval.

2. **Community Development Department.**

- a. **Written Agreement.** The Applicant shall submit an executed written instrument identified in condition B, "Written Agreement" to the Community Development Department prior to issuance of any permits.
- b. **Design Review Requirements.** Plans shall show all design elements as approved by the Architectural Board of Review and all elements/specifications shall be implemented on-site, including painting all equipment cabinets as approved by the ABR.
- c. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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 Applicant and/or Contractor for the duration of the project construction, including demolition and grading.
 - 1. **Construction Contact Sign.** Immediately after permit issuance, signage shall be posted at the site that list the contractor(s) name and telephone number(s), to assist City Inspectors and Police Officers in the enforcement of the conditions of approval. 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.
- F. **Prior to Final Inspection.** Prior to approval of Final Inspection, the Applicant shall complete the following:
 - 1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.
 - 2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government

entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

3. **Approval Limitations.**

- a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
- b. All antennas and related equipment, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
- c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

4. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.

5. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant 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 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 being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant 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.

III. **NOTICE OF CONDITIONAL USE PERMIT APPROVAL TIME LIMITS:**

The Planning Commission action approving the Conditional Use Permit shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Public Works permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion of Final Inspection.

This motion was passed and adopted on the 16th day of April, 2015 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: NOES: 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

PLEASE BE ADVISED:

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



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 006-15 1427 SHORELINE DRIVE COASTAL DEVELOPMENT PERMIT APRIL 16, 2015

APPLICATION OF BARRY WINNICK, ARCHITECT FOR GLENNIS AND JIM MALCOLM, 1427 SHORELINE DRIVE, APN 045-185-003, E-3/SD-3 (ONE FAMILY RESIDENCE AND COASTAL OVERLAY) ZONES, LOCAL COASTAL PLAN LAND USE DESIGNATION/RESIDENTIAL, (FIVE DWELLING UNITS PER ACRE) (MST2014-00136).

The proposed project involves a facade remodel and 1,096 square feet of first- and second-floor additions to an existing 1,152 square-foot, two-story, single-family residence with an attached 366 square-foot two-car garage. The proposal includes conversion of the existing two-car garage into living area, a 350 square-foot first floor addition, a 379 square-foot second floor addition, construction of a new 458 square-foot, two-car carport and attached 149 square-foot storage room, the construction of a total of 901 square feet of deck/patio area, interior remodel work, and additional site work. This proposal will also address violations identified in Zoning Information Report ZIR2011-00013 and enforcement case ENF2010-00744. The proposed total of 2,855 net square feet on a 12,012 square-foot lot is 72% of the maximum floor-to-lot area ratio (FAR).

The discretionary application required for this project is a Coastal Development Permit (CDP2014-00014) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

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, April 9, 2015.
2. Site Plans
3. Correspondence received in support of the project:
 - a. Sam and Amy Chesluk, adjacent neighbors, via email

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 because it does not result in any adverse effects related to coastal resources, based on the geology report provided and other known information regarding bluff retreat; including public existing views of the site, from the neighborhood and beach below, and along the ocean to the project site will be protected; and the project will not affect any public access to the

beach; and the proposed addition is located outside of the 75-year seacliff retreat line, and does not include high water use plantings or permanent irrigation in that area, as described in Section V.C. of the Staff Report.

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 because the addition is compatible with the surrounding single-family bluff top neighborhood, will not impact views from public view corridors, will not impact public access, is not an archaeologically sensitive site and will improve potential safety and drainage hazards on the bluff, as described in Section V.C. of the Staff Report.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements.
4. Record any required documents (see Recorded Conditions Agreement section).
5. Permits.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
 - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, 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 April 16, 2015, is limited to 1,096 square feet of first- and second-floor additions to an existing 1,152 square-foot, two-story, single-family residence with an attached 366 square-foot two-car garage. The proposal includes conversion of the existing two-car garage into living area, a 350 square-foot first floor addition, a 379 square-foot second floor addition, construction of a new 458 square-foot, two-car carport and attached 148 square-foot storage room, the addition of a total of 901 square feet of deck/patio additions, interior remodel work, and additional site work and the improvements shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.

2. **Development Restrictions.** New structures are prohibited seaward of the “75-year structural setback” line as noted on the plans and as recommended by Adam Simmons in the report titled “Geologic Sea Cliff Retreat – Updated Report”, dated October 28, 2014. Heavy, shallow rooted plants (e.g., ice plant) and high water use plants (including lawn) are also prohibited seaward of the same “75-year structural setback line.” Permanent irrigation is prohibited seaward of the 75-year structural setback line.
3. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
4. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
5. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. Should any of the project’s surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit and Coastal Development Permit is required to authorize such work. 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.
7. **Future Threats to Development.** By acceptance of this permit, the Owner agrees, on behalf of him/herself and all successors and assigns, that the Owner shall remove the development authorized by this permit, including the residence, carport, workshop, and patios/decks if any government agency has ordered that the structure(s) is not to be occupied in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other coastal hazards in the future. In the event that portions of the development fall to the beach before they are removed, the Owner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a Coastal Development Permit.

8. **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.
 9. **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. **Design Review.** The project, including public improvements, is subject to the review and approval of the Single Family Design Board (SFDB). The SFDB shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Appropriate Plants on Bluff.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the bluff. 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.
 2. **Landscaping on Bluff Top Properties.** The Single Family Design Board (SFDB) shall review any new landscaping, irrigation and/or improvements to said landscaping north of the top of bluff setback. Per the Geologic Investigation prepared by Adam Simmons, dated October 28, 2014, the use of deep rooted, drought tolerant plants is recommended in the southern portions of the property to minimize the potential for over-saturation and erosion. Thick and deep rooted plant varieties help to stabilize the slope and keep it in a state of under-saturation. The re-vegetation program (in areas where the existing vegetation is sparse or to be removed) should be implemented as soon as practical after the rough grading process. ~~Prohibit~~ Minimize the planting of high water use plants (including lawn) within 20 feet of the sea cliff. Remove any heavy, shallow rooted plants on or near the bluff top. Heavy, shallow rooted plants (e.g., ice plant) and high water use plants (including lawn) are also prohibited seaward of the "75-year structural setback line." 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.

3. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure. 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. Subsequent to removal of the drip system, any watering that is done within the 75-year structural setback area shall be hand-watering only.
 4. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the SFDB.
 5. **Location of Dry Utilities.** Dry utilities (e.g., above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by SFDB.
- D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
 - b. **Public Improvements.** The Owner shall submit Public Works plans for construction of public improvements. Plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the improvements to City Standards shall include the following:
 - Construction of a new 48" wide sidewalk along the entire project frontage of approximately 13 linear feet and a minimum 10' wide driveway apron using the existing right-of-way.
 - Construction of a private vault/manhole between the existing forced building drain and the gravity 4" sewer lateral to be located on-site near the front property line (SBMC 14.36.080).
 - Relocation of the water service by abandoning the existing ¾" water service that enters the neighbors property to the west, traverses the property and enters an unknown location on the western property line; and installation of a new 1" water service, resetting the existing 5/8" water meter on the property frontage.

2. **Community Development Department.**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
- b. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 treatment, rate and volume. The Owner has submitted a hydrology report prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water BMP Guidance Manual. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no unpermitted construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project.
- c. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section C "Design Review," and all elements/specifications shall be implemented on-site.
- d. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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, including demolition and grading.
 - 1. **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), construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. 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.

2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
3. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
 - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
 - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
 - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
 - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
 - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
 - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
 - g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.

- h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
- i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.

4. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: 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. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner 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.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

- 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 public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the

review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.
3. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

G. **General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **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 being notified of a lawsuit regarding 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.

III. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Planning Commission action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa-Barbara Municipal Code §28.44.230, unless:

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.

The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

This motion was passed and adopted on the 16th day of April, 2015 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 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

PLEASE BE ADVISED:

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