



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 012-15

340 E. LOS OLIVOS STREET

SETBACK AND FLOOR AREA MODIFICATIONS

JUNE 18, 2015

APPLICATION OF TRISH ALLEN, SUZANNE ELLEDGE PLANNING & PERMITTING SERVICES, AGENT FOR ALASTAIR WINN, 340 E. LOS OLIVOS STREET, APN 025-261-004, E-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MAX 3 DU/AC) (MST2013-00340)

The 13,510 square-foot site is developed with a 5,203 square-foot, three-story residence, a 408 square-foot detached garage with a 244 square-foot storage loft, and a 167 square-foot, detached accessory building. The proposed project includes permitting 501 square feet of "as-built" additions on the second and third floors of the residence, permitting a 120 square-foot, "as-built" addition to the accessory building, relocation and 60 square-foot addition to the garage, and demolition of the storage loft within the garage. Additional on site improvements include a 540 square-foot brick driveway with an integrated brick inlaid vehicular turntable and the "as-built" replacement of brick walkways.

This project will address violations identified within enforcement case ENF2013-00546 including "as-built" additions to the residence and the detached accessory building and the removal of other "as-built" structures. The permitted site development totals 6,002 square-feet and the proposed site development totals 6,439 square feet. The proposed project is 149% of the required floor-to-lot area ratio (FAR). This property is on the City's List of Potential Historic Resources: "Edwards/Dole House."

This project requires approval by the Planning Commission because the applicant is requesting a Net Floor Area (Floor to Lot Area Ratio) Modification that does not fall under the Staff Hearing Officer's review authority (see below).

The discretionary applications required for this project are:

1. Two Front Setback Modifications to permit "as-built" alterations to the detached accessory building to be located within a front yard and within the required thirty-foot front setbacks off Laguna and East Los Olivos Streets. (SBMC §28.15.060, §28.87.160, and SBMC §28.92.110);
2. An Interior Setback Modification to allow the relocated garage to encroach into the required ten-foot interior setback. (SBMC §28.15.060 and SBMC §28.92.110); and
3. A Net Floor Area (Floor to Lot Area Ratio) Modification of the net floor area standards imposed by SBMC §28.15.083 that would otherwise be precluded by operation of subparagraph 28.15.083.D. (SBMC §28.15.083, 28.87.030, and SBMC §28.92.110).

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 1 person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 11, 2015.

2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Kent Mixon, Agent for neighbor, Santa Barbara, CA

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

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

A. FRONT SETBACK MODIFICATIONS (SBMC §28.15.060, §28.87.160, and §28.92.110)

The Planning Commission finds that the Modifications to allow the additions and alterations to the existing accessory structure within the front yard and the required thirty-foot front setbacks are consistent with the purposes and intent of the Zoning Ordinance, creates a uniform improvement, and is necessary to secure an appropriate improvement on the lot. The proposed additions and alterations are appropriate because they result in a uniform addition to the accessory building that is not visible from the street frontage and is not anticipated to impact the street or the adjacent neighbors. The corner lot is constrained by the required setbacks and the location of the existing development. Due to the location of the existing accessory building, with the required front setbacks there is no opportunity for a conforming addition to the structure outside of the required setbacks.

B. INTERIOR SETBACK MODIFICATION (SBMC §28.15.060 and §28.92.110)

The Planning Commission finds that the Interior Setback Modification to allow the reconstruction, addition, and relocation of the existing garage structure within the required ten-foot interior setback is consistent with the purposes and intent of the Zoning Ordinance, and is necessary to secure an appropriate improvement on the lot. The proposed relocation, addition, and alterations are appropriate because the relocation and the addition will result in a garage with adequate interior width to park two standard size vehicles in a garage that aligns with the existing driveway apron and is consistent in size with the zoning requirement. The garage will be located outside of the required front setback improving the visual openness of the public street frontage making the building less visible from the street frontage and is not anticipated to adversely impact the adjacent neighbors. Due to the location of the existing driveway apron, the historic Mission Aqueduct, and the “no-build” easement, the garage could not be relocated to the east.

C. FAR MODIFICATION (SBMC §28.15.083 and §28.92.110)

The Planning Commission finds the following with regard to the Modification of the net floor area standard imposed by SBMC Section 28.15.083, to allow a development that would otherwise be precluded by operation of Subsection 28.15.083.D:

- a. Not less than six (6) members of the Historic Landmarks Commission have voted in support of the modification following a concept review of the project.

On October 8, 2014, the HLC voted 8/0/0 in support of the FAR modification.

- b. The subject lot has a physical condition (such as the location, surroundings, topography, or the size of the lot relative to other lots in the neighborhood) that does not generally exist on other lots in the neighborhood.

The residence, a potential City Landmark, is located on a corner lot and was developed prior to the adoption of the City’s first zoning ordinance. The corner lot is constrained by the location of

the existing development, the required setbacks, and the archaeological “no-build” easement to the west of the existing residence.

- c. The physical condition of the lot allows the project to be compatible with existing development within the neighborhood that complies with the net floor area standard.

The existing residence was constructed in 1911, was the first residence on the block, and is non-conforming to building height. The subject lot is situated in a neighborhood with a wide range of lot and house sizes. Eight of the 20 closest lots exceed 100% of the maximum required floor area ratio. The proposed project square-footage is consistent with development on comparable lot sizes within the neighborhood. The 437 square-foot, “as-built” additions represent a net increase of 9% of the existing floor area.

In addition, the “as-built” additions are well integrated into the overall design of the residence and with the size of residences within this neighborhood. The “as-built” additions at the rear of the residence and to the existing accessory building would not exceed the maximum 30 feet building height and are not readily visible from the public right-of-way.

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. 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.”
 3. Record any required documents (see Recorded Conditions Agreement section).
 4. 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 **TBD** is limited to an approximately 5,704 square-foot, three-story, single-family residence, a 267 square-foot detached accessory building, and a 468 square-foot garage, a brick driveway with an integrated vehicular turntable, and brick walkways 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 Restriction.** The Owner shall not make any use of the restricted portion of the Real Property as designated on the approved plans in order that those portions of the Real Property remain in their natural state. A 5-foot wide no-build area extending from the 2-foot wide aqueduct segment and projected aqueduct corridor extending southward through the project site shall be established to preserve the aqueduct resource in perpetuity. No ground disturbances shall be allowed within this 5-foot wide area. The restricted areas shall be shown on the site and landscape plans. The Owner shall continue to be responsible for maintenance of the restricted area, and compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.
 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 Historic Landmarks Commission (HLC).
 5. **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 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.
 6. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Historic Landmarks Commission (HLC). The HLC shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. The HLC should consider a garage door design that is consistent with the American Colonial Revival Style.
- 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.

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 shall submit drainage calculations 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 (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.

For any proprietary treatment devices that are proposed as part of the project's final Storm Water Management Plan, the Owner shall provide an Operations and Maintenance Procedure Plan consistent with the manufacturer's specifications (describing schedules and estimated annual maintenance costs for pollution absorbing filter media replacement, sediment removal, etc.). The Plan shall be reviewed and approved by the Creeks Division for consistency with the Storm Water BMP Guidance Manual and the manufacturer's specifications.

After certificate of occupancy is granted, any proprietary treatment devices installed will be subject to water quality testing by City Staff to ensure they are performing as designed and are operating in compliance with the City's Storm Water MS4 Permit.

- c. **Archaeological Monitoring Contract.** Submit a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground-disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance in the areas identified in the Phase 1 Archaeological Resources Report prepared for this site by Dudek, dated July 2014. The contract shall be subject to the review and approval of the Environmental Analyst.

The archaeologist's monitoring contract shall include the provisions identified in condition D.2.d "Requirement for Archaeological Resources" below.

d. **Requirement for Archaeological Resources.** The following information shall be printed on the grading plans and/or site plan:

- (1) The 8-foot long, 2-foot wide aqueduct segment and projected aqueduct corridor CA-SBA-4072/H extending southward through the project site shall be protected by plastic fencing during construction placed a minimum of 5 feet from the edge of the aqueduct segment and project corridor to ensure no inadvertent disturbances occur to the resource.
- (2) All construction activities within 30 feet of the 8-foot long, 2-foot wide aqueduct segment and projected aqueduct corridor extending southward through the project site shall be monitored by a qualified archaeologist to ensure that the fenced buffer adjacent to the aqueduct is maintained.
- (3) A 5-foot wide no-build area extending from the 2-foot wide aqueduct segment and projected aqueduct corridor extending southward through the project site shall be established to preserve the aqueduct resource in perpetuity. No ground disturbances shall be allowed within this 5-foot wide area.
- (4) If cultural resources are encountered or suspected during construction, work shall be halted immediately, and the City Environmental Analyst shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, (if the resource is prehistoric) 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, materials, or human remains, 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. The archaeologist shall determine the need for any other actions, including collecting a representative sample of prehistoric or historic remains, consistent with a Phase 3 Data Recovery

excavation as defined in City MEA Guidelines for Archaeological Resources and Historic Structures and Sites criteria.

- e. **Zoning Compliance Declaration.** The Owner shall file a Zoning Compliance Declaration to ensure that the residence shall remain a single-family residence. The detached accessory building may not be used as a separate dwelling unit.
- f. **Modification Validity.** Said approval is subject to the condition that if the building is demolished beyond what is shown on the Planning Commission approved plans, then the construction of the project shall be halted, and the applicant and/or property owner shall contact Planning Division Staff for a determination on whether one, or both, front setback Modifications are still valid.
- g. **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.
- h. **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 six square feet if in a single family zone.

2. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be carefully salvaged and delivered to the City Corporation Annex Yard on Yanonali Street.
 3. **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
- 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. **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 the issuance of the Final Inspection.
- 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. **Site Maintenance.** The existing site/structure(s) shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.
 4. **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 MODIFICATION APPROVAL TIME LIMITS:

The Planning Commission action approving the Modifications 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 Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

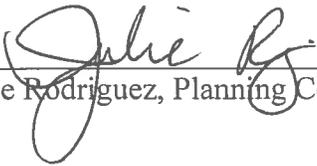
IV. NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

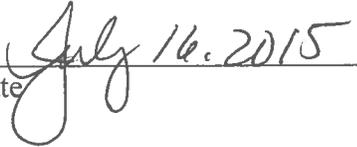
This motion was passed and adopted on the 18th day of June, 2015 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.