



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 011-17  
1903 EL CAMINO DE LA LUZ  
COASTAL DEVELOPMENT PERMIT  
JULY 6, 2017

**APPLICATION OF STACY FAUSSET, AGENT FOR FINEGOLD FAMILY TRUST, 1903 EL CAMINO DE LA LUZ, APN 045-100-078, E-3/SD-3 SINGLE FAMILY RESIDENTIAL/COASTAL ZONE, GENERAL PLAN AND COASTAL LAND USE PLAN DESIGNATION: RESIDENTIAL, 5 UNITS PER ACRE (MST2016-00216)**

The project involves improvements to a single-family property located on a bluff top lot in the City's Coastal Zone. The proposed landscape improvements include repair of an existing 233 square foot wood deck on the southern portion of the property including replacement of existing railing with clear glass; addition of a separate 96 square foot wood on-grade paving adjacent to the existing deck; removal of 390 square feet of existing stone patios around the south side of the residence and replacement with 401 square feet of concrete patios and stepping pads; relocation of a wood entry gate on the east side of the residence providing access into the yard; removal of existing plantings and replacement with new drought tolerant planting and drip irrigation in the landscaping areas surrounding the patios; and addition of a new wood sliding vehicle entry gate adjacent to the garage. One Eriobotrya tree is proposed to be removed, and two Cassia Leptophylla trees and three citrus trees are proposed to be installed. The project also includes abatement of previous zoning violations including 1) the removal of a metal shed in the setbacks, and 2) the removal of bathroom shower and replacement with tub to match original approved configuration (ZIR2014-00192).

Current drainage is through two existing drain inlets on southern portions of the site that flow into two existing 7-inch corrugated HDPE drain pipes that go down the bluff and drain to the beach. No changes to the existing drain pipes are proposed as part of the project. The site has had a historical access path down the bluff, which predates the Local Coastal Plan certification and would remain.

The discretionary application required for this project is a Coastal Development Permit (CDP2016-00011) 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 (Small Structures), which allows accessory structures such as patios and gates, and Section 15304 (Minor Alterations to Land), which allows for landscaping on private property.

**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 or in opposition of the application thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 29, 2017
2. Site Plans

3. Correspondence received in support of the project:
  - a. Bruce Peterson, 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 as described in Section VI of the Staff Report the proposed improvements and landscaping would not contribute to erosion, geologic instability or destruction of the site or in the surrounding area. In addition the project will not result in any adverse effects related to coastal resources, including views from the public right of way, and public access.
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, as described in Section VI of the Staff Report because the landscaping improvements would not contribute to erosion, geologic instability or destruction of the site. Furthermore, the project will not impact views from public view corridors; will not impact public access; will not contribute to safety or drainage hazards on the site; and since the project is located within the area previously reviewed cultural resources where none were found and includes minor, at-grade, improvements potential impacts to cultural resources would be less than significant.

- 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. Record any required documents (see Recorded Conditions Agreement section).
4. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.

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 July 6, 2017 is limited to repair of an existing wood deck on the southern portion of the property including replacement of existing railing with clear glass; addition of a separate 96 square foot wood on-grade paving adjacent to the existing deck; stone patios and landscaping improvements around the southern portion of the residence; including removal of existing plantings and replacement with new drought tolerant planting

and drip irrigation in the landscaping areas surrounding the patios; relocation of a wood entry gate and a vehicle entry gate adjacent to the garage. One Eriobotrya tree is proposed to be removed, and two Cassia Leptophylla trees and three citrus trees are proposed to be installed. The project also includes abatement of previous zoning violations including 1) the removal of a metal shed in the setbacks, and 2) the removal of bathroom shower and replacement with tub to match original approved configuration 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. **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.
3. **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.
4. **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.
5. **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 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.
6. **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.

7. **New Protection Devices Prohibited.** The construction of new shoreline and slope stabilization devices in the future to protect the patios, decks, and landscaping improvements that are the subject of this approval, from waves, erosion, slope failure, storm conditions, flooding, sea level rise, or any other coastal hazards is prohibited.
  8. **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. Any drip system along the bluff edge shall be removed after one full season of plant growth.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Single Family Design Board (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 and needs to be contacted.
  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 proposed less than 500 square feet of new/redeveloped impervious area and is required to comply with Tier 2 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87. 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. **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 point of entry to the site that list the contractor's name, and telephone number to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. 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. **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. **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.

4. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).

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. **Backflow Prevention Assembly.** Irrigation backflow prevention assembly will need to be tested upon installation and completed test report submitted to City Cross-Connection Control office before project building permit can receive final occupancy.

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.
3. 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 6th day of July, 2017 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 1 (Wiscomb) 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.

 Kathleen Goo, Commission Secretary      Date 8/28/17

**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.**