



City of Santa Barbara
PLANNING COMMISSION
MINUTES
FEBRUARY 1, 2018

1:00 P.M.
City Hall, Council Chambers
735 Anacapa Street
SantaBarbaraCA.gov

COMMISSION MEMBERS:

Lesley Wiscomb, Chair
Sheila Lodge, Vice Chair
John P. Campanella
Jay D. Higgins
Mike Jordan
Deborah L. Schwartz
Addison Thompson

STAFF:

N. Scott Vincent, Assistant City Attorney
Beatriz Gularte, Senior Planner
Kathleen Goo, Commission Secretary

CALL TO ORDER

Chair Higgins called the meeting to order at 1:03 p.m.

I. ROLL CALL

Chair Lesley Wiscomb (until 2:21 p.m.), Vice Chair Sheila Lodge, Commissioners John P. Campanella, Jay D. Higgins, Mike Jordan, Deborah L. Schwartz, and Addison Thompson

Absent: None

STAFF PRESENT

N. Scott Vincent, Assistant City Attorney
Beatriz Gularte, Senior Planner
Barbara Shelton, Project Planner/Environmental Analyst
Kathleen Kennedy, Associate Planner
Kelly Brodison, Assistant Planner
Kathleen Goo, Commission Secretary

II. PRELIMINARY MATTERS

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items:
No requests.
- B. Announcements and appeals:

Ms. Gularte announced an appeal was received for The Staff Hearing Officer's decision to not revoke the storefront collective dispensary permit for 118 N. Milpas Street, and it will be coming before the PC in the near future.

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

No public comment.

III. **NEW ITEM**

ACTUAL TIME: 1:04 P.M.

APPLICATION OF TOM MEANEY, ARCHITECT FOR ABBE & JOE HOPKINS, PROPERTY OWNERS OF 1201 DEL ORO AVENUE, APN 045-214-010, E-3/SD-3 SINGLE FAMILY RESIDENTIAL AND COASTAL OVERLAY ZONES, GENERAL PLAN/LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: FIVE RESIDENTIAL UNITS PER ACRE (MST2016-00327/CDP2016-00012)

The project consists of the demolition of the existing 1,441 square foot, one-story single-family residence and construction of a two-story, 2,119 square foot residence with a 670 square foot basement, and a 451 square foot attached garage for two cars in tandem configuration. The proposed total of 2,570 square feet on the 6,098 square foot lot is 95% of the maximum floor-to-lot-area ratio allowance of 2,724 square feet (the proposed basement square footage is excluded from the FAR).

The discretionary applications required for this project are:

1. A Front Setback Modification to allow the new house to be constructed within the 20 foot front setback from Del Oro Avenue (SBMC §28.15.060 and SBMC §28.92.110.A.2);
2. A Front Setback Modification to allow the new house to be constructed within the required 20 foot front setback from La Marina Drive (SBMC §28.15.060 and SBMC §28.92.110.A.2);
3. An Open Yard Modification to allow portions of the required open yard area to have less than the required 20 foot minimum dimension (SBMC §28.15.060 and SBMC §28.92.110.A.2); and
4. A Coastal Development Permit (CDP2016-00012) 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 Guidelines Section 15302, (Replacement or Reconstruction).

Contact: Kelly Brodison, Assistant Planner

Email: KBrodison@SantaBarbaraCA.gov

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

Kelly Brodison, Assistant Planner, gave the Staff presentation.

Tom Meaney, Architect, gave the Applicant oral presentation, and was joined by Abbe & Joe Hopkins, Owners.

Public comment opened at 1:47 p.m.

Scott Armstrong spoke in opposition to the project due to the multiple modification requests, disregard for City rules, and stated the use of stucco on the entirety of the home is incompatible with the neighborhood.

Public comment closed at 1:51 p.m.

MOTION: Higgins/Thompson

Assigned Resolution No. 003-18

Approve the project, making the findings for the two Front Setback Modifications; the Open Yard Modification due to the small size and irregular shape of the lot, site constraints, and outdated open yard development standards; and the Coastal Development Permit as outlined in the Staff Report dated January 25, 2018.

This motion carried by the following vote:

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

The Commission commented that they were in support for the tandem parking in the garage.

The ten calendar day appeal period was announced.

*** THE COMMISSION RECESSED FROM 2:11 TO 2:19 P.M. ***

IV. CONTINUED ITEM FROM DECEMBER 7, 2017

ACTUAL TIME: 2:19 P.M.

APPLICATION OF RRM DESIGN GROUP, ARCHITECT FOR HERBERT BARTHELS, 1837 ½ EL CAMINO DE LA LUZ, APN 045-100-065, E-3/SD-3, ONE-FAMILY RESIDENCE AND COASTAL OVERLAY ZONES, GENERAL PLAN/LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: RESIDENTIAL, 5 UNITS PER ACRE (MST2002-00214)

The proposed project consists of a 1,505 square foot (net), two-story, single-family residence with an attached 429 square foot (net) garage on a 23,885 square foot vacant bluff-top lot. Grading quantities total approximately 288 cubic yards of cut and 21 cubic yards of fill. Access to the site is provided by private easements extending south from the terminus of El Camino de la Luz.

The discretionary application required for this project is a Coastal Development Permit (CDP2002-00008) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

A Final Environmental Impact Report (EIR) has been prepared and prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091.

Contact: Kathleen Kennedy, Associate Planner

Email: KKennedy@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4560

RECUSAL: To avoid any actual or perceived conflict of interest, Chair Wiscomb recused herself from hearing this item due to ownership of property with 500 feet of the project.

Kathleen Kennedy, Associate Planner, gave the Staff presentation. Brian D'Amour, City Engineer/Principal Engineer; Dan Gullett, Supervising Transportation Planner; James Austin, Fire Inspector III; Barbara Shelton, Project Planner/Environmental Analyst; and Steve Rodriguez, EIR preparer, were available to answer questions.

Detty Peikert, Architect for RRM Design Group; Richard Gorman, Earth Systems Pacific; and Lawrence Hunt, Hunt Enterprises Biological Science, LLC, gave the Applicant presentations, and were joined by Steve Amerikaner, Attorney for Herbert Barthels, Owner.

Public comment opened at 3:58 p.m.

The following people spoke in opposition or with concerns:

1. Tom Sloan spoke with concerns regarding the loss of public access to the beach area.
2. Ray Franco stated that 70 years ago the original subdivision of the Mesa recognized and recorded the existence of a public trail and easement to the beach, and that City documents such as the EIR falsely negate that history in claiming no easement exists. Mr. Franco described multiple legal events that took place between the City and the owner over the last 60 years and quoted documents that show additional development on the bluff would be unwise and unsafe. Lee Scharfeld, Joanna Morgan, Jim Brooke, and Louis de Bourbon ceded their time to Mr. Franco.
3. Bruce Peterson, neighbor, explained reasons why a 25 foot setback should be maintained on the property due to safety concerns. He stated that it is the Coastal Commission's desire to repair and protect natural creeks and there is a standard to not develop below the canyon tops so as to preserve such creeks; however, the proposed development's location goes against that standard. Dionne Peterson and Grace Peterson ceded their time to Mr. Peterson.
4. Sabrina Venskus, environmental attorney with Venskus & Associates, stated that she is representing Citizens to Protect and Preserve the Mesa's Coastal Bluffs. Ms. Venskus explained that the finding cannot be made for sufficient legal and safe emergency access to the property, and called special attention to the importance of the determination between "bluff top" and "bluff edge" in the geological studies made. She further explained that the owner of the subject property testified in court that without a 15 foot driveway easement, the project cannot be completed, and the court granted the owner a full reimbursement of his property costs and development application costs. Lastly, she provided documentation and historical information supporting her statements that this development is being proposed on an illegal lot and the EIR language is deceiving and misleading. Sarah McCarter, Daniel McCarter, and Stan Krome ceded their time to Ms. Venskus.

Public comment closed at 4:27 p.m.

Commissioner comments:

Commissioner Thompson:

- The project has been studied more than any other project in recent history, and the EIR is extensive and comprehensive.
- Page 10 of the provided staff report reads as follows: "Conclusions about the significance of environmental impacts utilize City guidelines and practices and need to be based on substantial evidence within the entire record." After reviewing the entire record, the draft EIR, and all applicable City and Coastal Commission laws and policies, there is substantial evidence to find that two identified environmental impacts have been classified

incorrectly. The statement made in the EIR that there are no Class 1 impacts that are significant and unavoidable is unagreeable.

1. Under the category of Biological Resources, the environmental impacts are categorized as Class 2 impacts. However, siting a building without a setback over a riparian creek bank is a Class 1 impact and requires an appropriate determination of overriding consideration.
 - a. An email from the City's Creeks Division recommends a 25-ft setback from the top of the creek bank of Lighthouse Creek, and a Letter from the Coastal Commission states the project continues to be inconsistent with the requirements of section 30230 and Land Use Plan Policy 6.8.
 - b. Coastal Act section 30230 and policy 6.8 require the maintenance, restoration and enhancement of riparian resources, and the EIR analysis focuses mainly on structural stability issues at the top of the bank and downplays the riparian environment.
 - c. If the property is built where proposed, you will not be able to restore the riparian environment lost. Other projects in the City have always been required to provide an appropriate setback and revegetate with native materials, and this project should be required to do no less. There should be substantial setback.
2. Under the category Transportation Access, the access issues are listed as Class 2 and Class 3 issues; however, the analysis supporting the impact levels of a 7.5 foot driveway is insufficient, does not conform with the City's minimal width for a residential driveway, and will cause a significant impact in the short term for construction and in the long term for emergency access. This should be considered a Class 1 impact requiring a statement of overriding consideration if it is going to move forward.

Commissioner Jordan:

- Concurs with Commissioner Thompson and stated that he also cannot agree with EIR, and findings for the CDP on other areas such as visual impacts.
- Expressed disappointed that the comments were from the park view and did not take into consideration the view from the beach. Most of the visual conclusions have been of low visibility impacts, which is not true for a largely glass modern structure abutting out onto the bluffs. Other structures on the block are set back further from the bluff and provide some screening vegetation.
- In general, the mitigations are insufficient and out of step; the landscape mitigation is only enforceable by those who are aware that a view corridor to the beach should exist.
- The lack of staff response to the overwhelming legal posturing does not provide sufficient guidance to the Commission for a project with a challenging location, EIR issues, and inconsistent findings.

Commissioner Schwartz:

- Stated that the project is in the Appealable Jurisdiction of the Coastal Zone and rises to a level of analysis and consideration with reverence to the Coastal Act; however, at the same time it is important to balance the rights of the private property owner.
- The legal issues pertaining to the project are not in the purview of the Commission; nonetheless, it is clear that there seem to be outstanding legal questions that warrant resolution.

- Throughout the majority of the current staff report, the Commission is presented with inconclusive language, and using terms such as “potentially consistent” when discussing major issues of environmental analysis and compatibility presents a red flag.
- The Coastal Commission has issued consistent communication with very clear language that cannot find the EIR to be consistent with the applicable water quality, riparian vegetation, and geologic hazard policies of the City’s current certified LCP.
- The project design poses many concerns. The proposed development is cantilevered over the side, making it very visible, and though the proposed materials are attractive, it is not suited for Santa Barbara. The proposed design challenges many policies, values, and principals of the City’s General Plan and LCP, making the findings difficult to make.

Commissioner Campanella:

- Agrees with the other comments made and is concerned with the fact that to date, we still cannot satisfy the Coastal Commission analyst, Megan Sinkula.
- The staff report should be a blending of coastal policy, environmental reporting, and local City policies. However, letters of dissatisfaction from the Coastal Commission continue to be submitted and contain responses and new information for the City’s staff report. A decision cannot be made until the Coastal Commission at least does not object the project.
- Also, not knowing what changes are going to be made under the new LCP puts the PC in an unamiable position. It is important that if the applicant continues to go forward, more communication occurs with Coastal Commission to satisfy them on what the issues are, correct what they may be misinterpreting, and try to get to a point where the Coastal Commission is providing us with information to make a decision instead of refuting what we have presented to them.

Commissioner Higgins:

- Stated that he is prepared to take staff’s recommendation for what it is.
- Expressed that it is difficult to believe that a project could be approvable without adequate access but accepts the Public Works Director’s direction.
- The geological issues are different than those of other projects in this area, and it is important that we have Coastal Commission geologist support for the analysis. The Coastal Commission staff’s input is appreciated; however, Coastal Commission jurisdiction is different.

Commissioner Lodge:

- Concurs with Commissioner Thompson and Commissioner Jordan.

*** THE COMMISSION RECESSED FROM 5:16 TO 5:25 P.M. ***

The Applicant requested a continuance to the next available calendar hearing date.

Mr. Vincent stated that in order of the Planning Commission to take action on the project, the EIR must be certified, and if the Commission cannot do so, it should provide direction to staff on how the EIR needs to be re-done. It is recommended that the Commission grant the Applicant’s request for a continuance to give the Applicant and staff time to respond to the questions brought up during the hearing.

Additional Commissioner comments:

1. Commissioner Jordan asked that staff provide a more clear resolution or statement with better information in relation to what is being presented by staff and what is being submitted by the California Coastal Commission. Also, a representative from the Creeks Division should be present at the next hearing to discuss their opinion on what is being presented in the EIR. In addition, the applicant should provide more information on the visual impact of the project from the beach.
2. Commissioner Campanella asked that staff meet with the Coastal Commission and environmental experts to discuss their opposing positions and come back to the Planning Commission and adequately explain why the issues presented today should not be a concern.
3. Commissioner Schwartz and Commissioner Lodge asked that staff and the City Attorney's office meet with Ms. Venskus to discuss her client's ongoing concerns.
4. Commissioner Schwartz also asked that staff meet with the California Coastal Commission to discuss the concerns raised in the letter submitted on January 3, 2018 and requested, due to the complexity of the reports and materials provided for this project, more than a week's lead time be provided for Commissioners to thoroughly review all materials provided, and make it the sole item on the agenda.

MOTION: Jordan/Campanella

Continue the item indefinitely with the Commission's comments, with the applicant and staff to return at a mutually agreeable time.

This motion carried by the following vote:

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

V. ADMINISTRATIVE AGENDA

ACTUAL TIME: 5:56 P.M.

A. Committee and Liaison Reports:

1. Staff Hearing Officer Liaison Report
 - a. Commissioner Higgins reported on the Staff Hearing Officer meeting of January 31, 2018.
2. Other Committee and Liaison Reports

No reports.

VI. ADJOURNMENT

Chair Wiscomb adjourned the meeting at 5:57 p.m.

Submitted by,

Kathleen Goo, Commission Secretary

DRAFT