



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 009-18 2507 MESA SCHOOL LANE MODIFICATIONS AND COASTAL DEVELOPMENT PERMIT MAY 3, 2018

**APPLICATION OF ROBERT AND MADELINE TOWERY, PROPERTY OWNERS, 2507 MESA SCHOOL LANE, APN 041-311-002, E-3/S-D-3 (ONE FAMILY RESIDENCE/COASTAL OVERLAY) ZONES, LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: RESIDENTIAL – 5 UNITS PER ACRE (MST2017-00550)**

The proposed project involves the addition of 810 square feet of habitable floor area and a new attached 400 square foot garage to an existing one-story, 1,014 square foot single-family residence, resulting in a 2,223 square foot, one-story single-family residence on the 6,319 square foot lot. The project would also address violations identified in ZIR2015-00604, specifically through demolition of the unpermitted carport and storage at the rear of the house, demolition of the storage shed attached to the front of the house, reduction of the front fence to 42 inches in height, and removal of unpermitted laundry hookups and water heater. The project also includes removal of several trees located in the front setback.

The proposed addition would reduce the amount of code compliant open yard area provided on site and requires a modification. An existing koi pond with waterfall is located in the required interior setback at the rear of the house and is proposed to remain, requiring a modification.

The discretionary applications required for this project are:

1. An Open Yard Modification to allow less than the required 1,250 square feet of open yard area with minimum dimensions of twenty feet (SBMC §28.92.110, §28.15.060.C);
2. An Interior Setback Modification to allow the existing unpermitted pond to encroach into the required six-foot interior setback (SBMC §28.92.110 and §28.15.060.B.5); and
3. A Coastal Development Permit (CDP2017-00008) 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 Sections 15301 and 15305.

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, 2 people appeared to speak in favor of the application, and 1 person appeared to speak with concerns thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, April 26, 2018
2. Site Plans
3. Correspondence received in support of the project:
  - a. David and Jane Brown, Santa Barbara, CA

4. Correspondence received with concerns about the project:
  - a. Nancy Ferguson, 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. OPEN YARD MODIFICATION**

The open yard modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The existing lot is constrained due to its small size and shallow depth. The proposed addition is modest in scale and retains an adequate amount of open yard area overall, although the Ordinance-recognized area is less than 1,250 square feet, as described in Section VI of the Staff Report.

**B. INTERIOR SETBACK MODIFICATION**

The interior setback modification for the existing pond is consistent with the purposes and intent of the Zoning Ordinance and is necessary to prevent unreasonable hardship and secure an appropriate improvement on the lot. The pond has existed on the property for many years and the property was purchased without the property owner's knowledge that the pond was located within an interior setback. The pond is a small landscape feature with minimal noise associated with it. Therefore, as described in Section VI of the Staff Report, the pond is an appropriate improvement on the lot.

**C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

1. The project is consistent with the policies of the California Coastal Act because the project site does not include public access, marine resources, environmentally sensitive habitat, or prime agricultural land; the project site is designated for use as residential; proposed development is within an existing developed area; and the project does not impact scenic or visual resources, as described in Section VI 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, as described in Section VI 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. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
2. Record any required documents (see Recorded Conditions Agreement section).
3. 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 any 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 May 3, 2018 is limited to an addition of approximately 810 square feet and a 400 square foot garage to an existing one-story single family residence 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. **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).
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/or 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. **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. 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. 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 and provide 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*. Public Works Engineering Division Staff prepares said agreement for the Owner's signature.
- b. An approved reduced pressure principal backflow prevention assembly is required at irrigation point of connection and is to be inspected by the City's Cross-Connection Control Specialist. A completed successful backflow test report is required to be submitted to City's Cross-Connection Control office at [backflow@santabarbaraca.gov](mailto:backflow@santabarbaraca.gov).
- c. If pond is fed by a hose, a vacuum breaker is required on the hose bibb, if it is plumbed directly its fill line will also need to be protected by the backflow prevention assembly.

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. 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 Creeks Division. 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.

**D. 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 and contractor(s) telephone number(s), 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 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. **Tree Protection.** All trees not indicated for removal on the approved site plan shall be preserved, protected, and maintained during construction.
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).
5. **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.

**E. 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.

**F. 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 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 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.

**V. 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 3rd day of May, 2018 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.

\_\_\_\_\_  
Krystal M. Vaughn, 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.**