



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 015-18 1409 AND 1413 SHORELINE DRIVE COASTAL DEVELOPMENT PERMIT MAY 17, 2018

**APPLICATION OF TRISH ALLEN, SEPPS, AGENT FOR SUNNY AND JONATHAN BARACH, 1409 AND 1413 SHORELINE DRIVE, APN 045-185-018, & -17, E-3/SD-3 ONE-FAMILY RESIDENCE/ COASTAL OVERLAY ZONES, GENERAL PLAN AND LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: RESIDENTIAL, 5 DWELLING UNITS PER ACRE (MST2016-00117)**

The proposed project consists of improvements to an existing 3,972 square foot, single-family residence on a 33,540 square foot bluff top/ flag lot at 1409 Shoreline Drive. The improvements consist of the replacement of the existing driveway pavers with new pavers; replacement of the concrete driveway with permeable pavers; replacement of the existing vehicle gate; new trash enclosure; new outdoor shower; new six foot high fence along the eastern property line; removal of the existing concrete flatwork, wood deck, and trellis at the southern elevation of the residence and the installation of a new wood deck and trellis; new outdoor gathering spaces with gravel, low lighting, and flagstone pavers; new 42" high wood safety fence; removal of the concrete slab foundation at the edge of the cliff; and the installation of water-wise plantings. Four onsite trees (one Brazilian Pepper, two Eucalyptus, one dead Palm) would be removed. The grading for the project consists of 85 cubic yards of cut. The proposed project also includes the removal of the unpermitted wood deck and small concrete path and viewing platform, as well as the installation of new landscaping in order to abate violations identified in the Zoning Information Report (ZIR2014-00299). The only work proposed on the 1413 Shoreline Drive property is the removal of a Canary Island Date Palm and Queen Palm.

The discretionary application required for this project is a Coastal Development Permit (CDP2018-00009) 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 15301 (Existing Facilities) and Section 15304 (Minor Alterations to Land).

**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 and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 10, 2018
2. Site Plans

**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 in regard to enhancement of visual qualities and minimization of geologic hazards as described in Section VI of the Staff Report.

2. With the condition of approval that the proposed 42” high wood safety fence, and outdoor gathering space consisting of gravel, low lighting, and flagstone pavers be removed from the bluff face, and that the fence be relocated to an area above the City mapped bluff edge, the project is consistent with all applicable policies of the City's Local Coastal Plan in regard to drainage, bluff edge, and visual quality, 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. 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. Permits. 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 for 1409 Shoreline Drive.** 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 17, 2018 is limited to the replacement of the existing driveway and gate; replacement of the concrete flatwork, wood deck, and trellis at the southern elevation of the residence; new 42” high wood safety fence; removal of the concrete slab foundation, wood deck and small concrete path and viewing platform; removal of existing stone steps from bluff face; removal of six trees, including two trees from 1413 Shoreline Drive; new landscaping and other improvements (except those proposed on the bluff face) 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. **Maintenance of Improvements.** The improvements on the project site shall be maintained so that they do not become a safety issue on the project site or surrounding area.
  6. **Removal of Improvements.** Improvements shall be removed if deemed unsafe due to coastal hazards (e.g., geologic instability, erosion, wave impact hazards) or when erosion reaches within five feet of the improvements.
  7. **Coastal Bluff and Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, 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.
- C. **Design Review.** The project 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. **Relocation of Proposed Fence.** The proposed 42" high wood safety fence shall be installed above the City mapped bluff edge.
  2. **Fence Construction.** The 42" high wood safety fence shall be supported with helical screw piles and constructed with heavy gauge wire (or similar tensile support) to help secure it in case portions are undermined due to erosion, as recommended in the Geological Investigation Report (Simmons, March 15, 2018).
  3. **Additional Site Improvements.** Pervious materials, comparable to those proposed in Area C (as shown on the exhibit in the staff report), shall be allowed on the western side of the property, south of the proposed play area and above the bluff edge.
  4. **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.

5. **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 shall be kept to the minimum necessary for plant survival. The drip system along the bluff shall be removed after one full season of plant growth.
- 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 proposed project, by proposing less than 500 square feet of new/redeveloped impervious area, 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. **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. **Arborist’s Report/Tree Protection Plan.** The project shall comply with the recommendations of the Arborist’s Report (Spiewak, February 14, 2018) and the Tree Protection Plan as shown on the approved plans. The tree protection measures shall apply to the City trees at Shoreline Park and any work on City trees shall be in consultation with the City Arborist.
2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that lists 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.
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.
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 nets(s).
5. **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](http://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.
6. **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.

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.

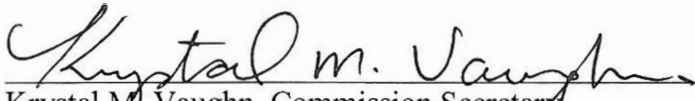
This motion was passed and adopted on the 17 day of May, 2018 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 2 ABSTAIN: 0 ABSENT: 1



PLANNING COMMISSION RESOLUTION No.015-18  
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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

5/17/18  
\_\_\_\_\_  
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.**

