



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 082-08
1425 MISSION RIDGE ROAD
MODIFICATION
OCTOBER 22, 2008

APPLICATION OF SUDING DESIGN LANDSCAPE ARCHITECTS FOR ESCALERA LIVING TRUST, 1425 MISSION RIDGE ROAD, APN: 018-103-023, A-2, ONE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: 3 UNITS PER ACRE (MST2008-00244)

The project consists of a proposal to amend a prior approval (MST2005-00098) for an "as-built" 55 foot long retaining wall, 836 cubic yards of grading in the front yard and within the road right-of-way, "as-built" pool removal, an entry gate and wall and a landscape plan. The Planning Commission (PC) approved this project with conditions in 2006. The applicant requests a Staff Hearing Officer (SHO) project amendment to reduce the finished grade adjacent to the retaining wall by 1.5 feet instead of the 5 feet approved by the PC and to allow a higher retaining wall height ranging from 3.73 feet to 6.11 feet instead of the 3.5 feet to 6.42 feet approved by the PC. The project is located on a 1.9 acre lot in the Hillside Design District.

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, no one appeared to speak in favor or opposition of the application and the following exhibits were presented for the record:

1. Staff Report with Attachments, October 15, 2008.
2. Site Plans
3. Correspondence received in support of the project:
Petition dated April 21, 2005, signed by nine (9) petitioners.
4. Correspondence received in opposition to the project:
Paula Westbury, 650 Miramonte Drive, Santa Barbara CA 93109.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

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

The Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot, because Mission Ridge Road is approximately 30 feet wide, there is a landscaped right-of-way between the road and the property of approximately 30 feet, the visibility of the wall from Mission Ridge Road is minor as the property slopes downward from the road and the wall does not obstruct visibility of vehicular traffic.

- II. Said approval is subject to the following conditions:

- A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.
1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department shall be replaced on-site on a one-for-one basis with minimum 24-inch box sized tree(s) of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.
 2. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures, intended to minimize impacts on trees:
 - (a) **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).
 - (b) **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Robert Muraoka, M.S., B.S., dated April 1, 2008, shall be implemented.
 - (c) **Fencing.** Fencing or protective barriers around the tree(s) during construction.
 - (d) **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:
 - (1) Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by Single Family Design Board (SFDB)). No irrigation system shall be installed under the dripline of any oak tree.
 - (2) Oak trees greater than four inches (4") in diameter at four and ½ feet (4.5') above grade removed as a result of the project shall be replaced at a five to one (5:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
 - (3) Oak trees not indicated for removal on the site plans shall be preserved, protected and maintained.
 - (4) During construction, fencing or protective barriers shall be placed around the driplines of all oak trees with driplines within 25 feet of development.
 - (5) No grading shall occur under any oak tree dripline except as indicated on the drainage and grading plan for construction of the wall. Grading within the dripline during construction of this area shall be minimized and shall be done by hand under the supervision and direction of an Arborist certified by the International Society of Arboriculture. If use of larger equipment is necessary within the dripline of any oak, it shall only be operated under the supervision and direction of an Arborist certified by the International Society of Arboriculture.

- (6) An Arborist certified by the International Society of Arboriculture shall be present during any grading or excavation adjacent to or beneath the dripline of any oak tree. Any roots encountered shall be cleanly cut. Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.
 - (7) No storage of heavy equipment or materials or parking shall take place within five (5) feet of the dripline of any oak tree.
 - (8) Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by the Single Family Design Board (SFDB). No irrigation system shall be installed under the dripline of any oak tree.
 - (9) Oak trees greater than four inches (4") in diameter at four feet and ½ feet (4.5') above grade removed as a result of the project shall be replaced at a five to one (5:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
 3. **Lighting.** Exterior lighting where provided shall be consistent with the City's Outdoor Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.
 4. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
 5. **Additional Landscaping Below Rear Wall.** Substantial additional landscaping shall be planted below the rear wall to reduce its visibility, including fast-growing shrubs and cascading vines. in the exterior wall of the building.
 6. **Proposed Landscaping.** Landscaping, except trees between Mission Ridge Road and the retaining wall shall be low growing landscaping which will not exceed 3 1/2 feet in height at maturity.
- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, which shall be 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 Staff Hearing Officer on October 22, 2008 is limited to the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted 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. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.

4. **Street Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.
 5. **Future House.** Any future house will be a single story house in the Mediterranean architectural style, subject to approval by the Single Family Design Board (SFB), and maintain the view corridor from Franceschi Park.
- C. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Water Rights Assignment.** Owner shall assign to the City of Santa Barbara. The exclusive right to extract ground water from under the Real Property. This assignment of rights shall not include a right of surface entry on or from the Real Property. Said agreement and any related agreements are subject to the review and approval of the City Attorney and the City Public Works Director. Said agreement shall be recorded in the Office of the County Recorder.
 2. **Public Improvement Plans.** Owner shall submit a building plan for construction of repair of public improvements along the subject property road frontage on Mission Ridge Road. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards portions of damaged curb along property frontage.
- D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.
 2. **Grading Plan Notes.** Notes on the plans and specify the following:
 - (a) No irrigation system shall be installed under the driplines of trees.
 - (b) No grading shall occur under the driplines of the existing trees.
 - (c) An Arborist certified by the International Society of Arboriculture shall be present during any excavation adjacent to or beneath the dripline of the trees which are required to be protected.
 - (d) All excavation within the dripline of the trees shall be done with hand tools.
 - (e) Any roots encountered shall be cleanly cut.

- (f) The trees shall be thinned as needed in accordance with recommendations of an Arborist certified by the International Society of Arboriculture. A permit shall be obtained from the Parks Department at (805) 897-2692.
- (g) No heavy equipment, storage of materials or parking shall take place under the dripline of the trees.
- (h) Any root pruning and trimming shall be done under the direction of an Arborist certified by the International Society of Arboriculture.

3. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division 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 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 Planning Division 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 Planning Division grants authorization.

4. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is 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.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner (Archaeologist, Architect, Arborist, Landscape Architect, Biologist, Geologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors), Contractor and each Subcontractor.
2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
3. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number that is answered by a person, not a machine.

4. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
 - (a) During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - (b) Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
 - (c) Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.

5. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:
 - (a) Site grading and transportation of fill materials.
 - (b) Regular water sprinkling; during clearing, grading, earth moving or excavation.

- (c) Sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied on-site to prevent dust from leaving the site.
 - (d) Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.
 - (e) Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement on-site damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.
6. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
 7. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
 8. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 9. **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) telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. 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 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
 10. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 11. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
 12. **Unanticipated Archaeological Resources Contractor Notification.** 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

uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant 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.

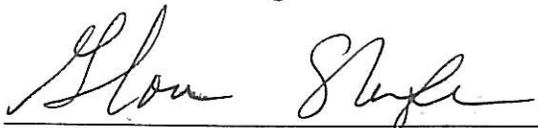
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- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
- G. **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 the City Council denial of the appeal and approval of 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 22nd day of October, 2008 by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.



Gloria Shafer, Staff Hearing Officer Secretary

10-28-2008

Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Single Family Design Board (SFDB) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has not been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

