



City of Santa Barbara

Planning Division

STAFF HEARING OFFICER MINUTES

NOVEMBER 4, 2009

CALL TO ORDER:

Susan Reardon, Senior Planner, called the meeting to order at 9:01 a.m.

STAFF PRESENT:

Susan Reardon, Senior Planner
Danny Kato, Senior Planner
Chris Hansen, Building Inspector/Plan Check Supervisor
Roxanne Milazzo, Associate Planner
Kelly Brodison, Assistant Planner
Gloria Shafer, Staff Hearing Officer Secretary

I. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.
Susan Reardon, Senior Planner announced that Item F, 1660 Shoreline Drive, is continued to November 18 for renoticing.
- B. Announcements and appeals.
No announcements.
- C. Comments from members of the public pertaining to items not on this agenda.
No comments.

II. PROJECTS:

ACTUAL TIME: 9:02 A.M.

- A. APPLICATION OF KIRK GRADIN, ARCHITECT FOR ROBERT ZORICH, 1565 FRANCESCHI ROAD, APN 019-101-012, A-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: OPEN SPACE (MST2009-00164)

The 22,000 square foot project site is currently undergoing site improvements. As a part of the proposed exterior changes, site walls and a pedestrian gate will be added to the existing vehicle entry gate and pillars. The discretionary application required for this project is a Modification to permit a portion of the site walls to exceed the maximum allowable height of 3 ½ feet when located within ten feet of the front lot line or within the first twenty feet along the driveway (SBMC §28.87.170).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 & 15305.

Present: Kirk Gradin, Architect.

Roxanne Milazzo, Associate Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:05 a.m.

A letter in opposition from Paula Westbury was acknowledged.

As no one wished to speak, the Public Hearing was closed.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

ACTION: **Assigned Resolution No. 089-09**

Approved the project making the finding that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed site wall is appropriate because it results in minimal exterior change, and does not result in visibility or safety issues for the community.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 9:06 A.M.

B. APPLICATION OF INGE ROSE, 256 SAN NICOLAS, APN 045-151-001, E-3 ONE FAMILY RESIDENCE/SD-3 COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: 5 UNITS PER ACRE (MST2009-00272)

The 6,130 square foot project site is located on the corner of San Nicolas and San Miguel Avenue. Current development on site consists of a single family residence and detached one-car carport. The proposed project involves an "as-built" fence located along the San Miguel front lot line. The discretionary application required for this project is a Modification to permit the cumulative height of the fence, on top of a wall, to exceed the maximum allowable height of 3 ½' when located within ten-feet of a front lot line (SBMC §28.87.170).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 & 15305.

Present: Inga Rose, Owner.

Roxanne Milazzo, Associate Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:10 a.m.
A letter in opposition from Paula Westbury was acknowledged.
The Public Hearing was closed.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

Ms. Reardon stated that the combination of the as-built fence and hedge along the front lot property line are not consistent with the intent of the Ordinance, nor with the neighborhood. Together they are not an appropriate improvement. If it could be shown that the hedge was planted prior to 1957, the hedge would be considered nonconforming and the condition regarding the reduced hedge height would not apply. Ms. Rose stated that she was unprepared to discuss the hedge as it was her understanding that the hedge had been removed from the application.

ACTION: **Assigned Resolution No. 090-09**
Approved the project making the finding that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The fence provides privacy to the rear yard of this corner property, and is consistent with corner lots throughout the Marine Terrace Neighborhood.

Said approval is subject to the condition that the existing hedge in the front yard along the corner of San Miguel and San Nicolas Avenues shall be trimmed to a maximum height of 3½ feet.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 9:21 A.M.

C. APPLICATION OF MELORA SCHARF, PROJECT MANAGER FOR GARDNER FAMILY TRUST, 1600 W. MOUNTAIN DRIVE, APN 021-005-033, A-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: MAJOR HILLSIDE (MST2009-00449)

The 18+ acre project site is currently developed with a greenhouse, pool structure, and three-car garage. The previously existing single family residence on-site was destroyed in the Tea Fire. The proposed project involves the construction of two new single family residences and associated accessory structures. The discretionary applications required for this project are a Performance Standard Permit to allow an additional dwelling unit on a one-family residential lot and an Amendment to the Conditions of Approval of a Staff Hearing Officer approval on April 8, 2009 (Resolution No. 026-09) (SBMC §28.93.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 & 15305.

Present: Ted Gardner, Applicant.

Roxanne Milazzo, Associate Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:24 a.m.

Jeff Johnson, asked questions regarding future steps for the proposed homes. A letter in opposition from Paula Westbury was acknowledged.

The Public Hearing was closed.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

ACTION: **Assigned Resolution No. 091-09**
Approved the project making the finding that the Performance Standard Permit complies with all standards of SBMC §28.93.030.E., including adequate lot area for two residential units, with associated existing accessory space, and adequate ingress and egress for each residence. The Staff Hearing Officer finds that the condition of approval contained in SHO Resolution No. 026-09, that restricted the use of the existing three-car garage to accessory space is no longer necessary due to a revised development plan that will utilize the existing garage for the additional dwelling unit's required parking.

Said approval is subject to the condition that the development of the Real Property approved by the Staff Hearing Officer on November 4, 2009 is limited to two single family residences, a 872 square foot carport, a 782 square foot garage, and 1,538 square feet of accessory space as shown on the Site Plan signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 9:31 A.M.

D. APPLICATION OF HECTOR MAGNUS, ARCHITECT FOR ANTAR DAYAL, 306 SHERMAN ROAD, APN 019-050-003, A-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: MAJOR HILLSIDE (MST2009-00414)

The 10,500 square foot project site was previously developed with a single-family residence and attached two-car garage, which were destroyed in the Tea Fire. The project consists of construction of a 2,427 square foot residence and attached 471 square foot garage. The discretionary application required for this project is a Modification to permit new construction within the required 35' front setback- (SBMC §28.15.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 & 15305.

Present: Hector Magnus, Architect; Antar Dayal, Owner.

Roxanne Milazzo, Associate Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:35 a.m.

Two letters in opposition from Hazel Anderson and Paula Westbury were acknowledged.

Three letters in support from Dante DeLucia and Ana Ojeda, Craig Penner, and Angela Antenore were acknowledged.

Nelle Slack, spoke in support of the Modification.

Tony Fisher, attorney for Hazel Anderson, expressed concern with lack of SFDB notification, and inaccurate notice description (submitted written comments).

Hazel Anderson, opposed: concerned about negative impacts to her home from the proposed structure.

The Public Hearing was closed at 9:44.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

Ms. Reardon clarified that the modification hearing today is for the garage encroachment and that architecture is approved by the SFDB. Ms. Milazzo questioned whether the project could be conditioned to return to the SFDB Full Board rather than the Consent Calendar for design approval.

Ms. Reardon responded that her purview is consistency of zoning standards and stated that the house conforms to the required setback and building height limit and open yard regulations. Ms. Reardon explained that given the substandard size and slope of the lot, as well as the existing development pattern on the street, the proposed addition toward the front of the house is the appropriate location.

Ms. Reardon encouraged the applicant to work with neighbors prior to returning to the Single Family Design Board.

ACTION:

Assigned Resolution No. 092-09

Approved the project finding that the Modification to allow the garage within the front setback 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 located at the end of a cul-de-sac and is constrained due to the existing slope and substandard size of the lot. The reduced front setback allows for the replacement garage to be placed on the less steep portion of the lot. The proposed front setback is compatible with the development pattern of the street.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 9:52 A.M.

E. **APPLICATION OF TIMOTHY COONEY, APPLICANT FOR ALOHA SPIRIT ORGANIC CONSUMABLES, INC., 302 E. HALEY STREET, APN 031-281-001, C-M ZONE, GENERAL PLAN DESIGNATION: COMMERCE-INDUSTRIAL (MST2009-00380)**

The project consists of the establishment of a medical cannabis dispensary within an existing 1,800 square foot commercial tenant space on the first floor of an existing mixed-use building. The discretionary application required for this project is a medical cannabis dispensary permit (SBMC §28.80.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301, Existing Structures.

Present: John Donahue, Applicant; David Back, Property Owner.

Kelly Brodison, Assistant Planner, gave the Staff presentation and recommendation.

Ms. Reardon questioned whether the rear parking area will be patrolled. Mr. Donahue responded that the rear area is proposed to be patrolled hourly by staff and licensed security guard.

Mr. Kato stated that the rear west entrance is not allowed to be only an exit door because of ADA requirements handicapped individuals must be able to enter and exit through that door. Mr. Donahue clarified that security personnel will monitor and provide entrance through the rear door for handicapped individuals. Mr. Kato stated that from previous discussions with Building Division staff, it was felt that the proposed solution is not adequate.

Ms. Reardon questioned whether security are proposed to be positioned at the rear at all times and alert employees to open the door for a disabled individual. Donahue responded that it was felt that the camera system would be adequate to monitor the rear of the building.

The Public Hearing was opened at 10:04 a.m.

Robert Fedor, opposed: concerned about the number of law enforcement issues with dispensaries owned by the applicant in other cities.

Sharon Byrne, opposed: suggested consulting the City Attorney due to two state case laws that have passed since the city's ordinance was approved.

Tony Vassallo, opposed: concerned that the Milpas, Haley, and Chapalla St. corridors have been targeted for medical marijuana dispensaries which will have serious economic and neighborhood consequences. Requested a continuance until legal ramifications can be researched.

Pat Clemens, opposed: concerned due to the mixed-uses on the neighborhood block, addressed security concerns (submitted written comments signed by four residents).

Bill Bailey, opposed: addressed safety concerns in the mixed-use area.

Four letters in opposition of the project from Paula Kinnison, Steve Campbell, Sharon Byrne and Tony Vassallo, and Robert Fedor were acknowledged.

The Public Hearing was closed at 10:16 a.m.

Ms. Reardon asked Mr. Kato to address crime in the general area, as well as changes to state law. Mr. Kato responded that according to Captain Martel, of the SBPD, this reporting district is not listed among the top ten areas for violent crimes, and does not is not considered a high crime area. Mr. Kato stated that the City Attorney is aware of state law and gave the direction that staff is to proceed under the current ordinance. Mr. Kato stated that a discussion of dispensary vs. collective models is tentatively scheduled for discussion by City Council on November 17. The discussion will include the current land use zoning model vs. expansion into full enforcement of Proposition 215 and SB 420.

Ms. Reardon stated that the Zoning Ordinance requires doors to be clearly visible from the public street and questioned the applicant on how the multiple doors will be secured and still comply with ADA requirements. Because one of the rear doors is not visible from the street, she questioned whether the door could be removed and a window installed. Mr. Donahue stated that removal of a rear door is not planned but the door will be used as an emergency exit only. Mr. Kato stated that in discussion with Mr. Hanson, he clarified that that the rear east door is not required by Building Code.

Ms. Reardon stated concern with lack of visibility on the street front and questioned whether the gates could be removed and replaced with one door flush with the front face of the building. Mr. Donahue responded that the gates are a security measure, and City staff required a ramp of a specified degree to comply with ADA accessibility requirements. Chris Hansen, Bldg. Inspector/Plan Check Supervisor was requested to attend the meeting to clarify ADA requirements.

Public Comment reopened at 10:33 a.m.

David Back, building owner: it is not possible to redesign the alcove without significant cost because there is plumbing located within the wall. Ms. Reardon explained improvements required for ADA accessibility.

Public comment closed.

Ms. Reardon questioned the applicant about client access from the rear entrance, and product packaging. Mr. Donahue responded that staff would be made aware of disabled clients wanting access from the rear by means of four security cameras and on-screen monitoring. He explained that products would be double sealed with product labels indicating contents stating that products are not to be opened onsite.

Ms. Reardon questioned Chris Hansen, Bldg. Inspector/Plan Check Supervisor, about the ADA ramp and front and rear entrance access. Chris Hanson, Building Official, clarified that if an elevator is not utilized for ADA access, then a ramp is required; whether an exterior or interior ramp is the choice of the applicant and the Public Works Department. He acknowledged that there were other options to meeting ADA access requirements.

Ms. Reardon questioned whether the rear East entrance could be removed or changed to a window. Mr. Hansen explained that because there will be only one tenant, the rear East door is not a Code requirement. Mr. Hanson explained that handicapped individuals could not be expected to travel parallel to traffic in order to reach the front entrance. Mr. Hansen stated that it is a Building Code requirement to have an entrance as close as possible to handicapped parking. The manner of method of gaining the attention of staff inside would have to be meet ADA requirements.

ACTION:

Assigned Resolution No. 093-09

Approved the project making the findings contained in Section VII of the Staff Report dated October 28, 2009, and subject to the Conditions of Approval contained in Exhibit A of the Staff Report as revised at the meeting with the following additional conditions:

1. The Haley Street entrance door shall be flush with the front face of the building. As determined by the Santa Barbara Police Department, adequate security cameras for revised façade shall be provided.
2. The west rear door. Remaining rear door shall be removed. The remaining rear door shall be signed for handicapped entrance/exit only.
3. Dispensary personnel shall not sell, display, offer or provide drug paraphernalia, or any other instrument that may be used to administer medical cannabis.
4. Consumable products shall be sold in vacuum sealed, double carry-out packaging, with statement that products will neither be consumed on premises nor within 200 feet of premises, including within the parking area.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

- F. APPLICATION OF PAUL ZINK, ARCHITECT, FOR CRAIG AND KARI ARCURI, 1660 SHORELINE DRIVE, 045-172-023, E-3/SD-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL – 5 UNITS PER ACRE (MST2009-00370)

CONTINUED TO NOVEMBER 18, 2009 FOR RENOTICING

III. ADJOURNMENT

Ms. Reardon adjourned the meeting at 11:17 a.m.

Submitted by,



Gloria Shafer, Staff Hearing Officer Secretary

11-12-2009

Date

