



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 022-10 646 SEA RANCH DRIVE MODIFICATION COASTAL DEVELOPMENT PERMIT APRIL 21, 2010

APPLICATION OF BRYAN POLLARD ARCHITECT FOR CLARENCE AND JOAN AGRESS, PROPERTY OWNER 646 SEA RANCH DRIVE, APN 047-104-004, A-1/SD-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL (MST2010-00014)

The proposed project involves A Coastal Development Permit for an "as-built" 139 net square foot detached accessory building and a 334 net square foot detached artist studio, with a half bath (sink & toilet). Grading for the project will be 20 cubic yards of cut.

The discretionary applications required for this project are:

1. A Coastal Development Permit, (CDP2010-00003) to allow the proposed development in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060); and
2. A Modification to allow an accessory structure in the front yard (SBMC §28.87.160.C.).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (e), New Construction or Conversion of Small Structures.

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, April 14, 2010.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, 650 Miramonte Drive, Santa Barbara, Ca

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

- I. Approved the subject application making the following findings and determinations:
 - A. **Modification (SBMC §27.07.100)**
 1. The requested modification is not part of the approval of a tentative subdivision map, conditional use permit, development plan, site plan, plot plan, or any other matter which requires approval of the Planning Commission. The project is a request for both a Coastal Development Permit and a Modification, and both

may be considered by the Staff Hearing Officer. The modification would not significantly affect persons or property owners other than those entitled to notice. The project is located wholly on the subject lot and is located between the public street and the existing residence. The public street is located approximately 40 feet above the accessory building and the accessory would not be visible. Therefore, public views to the ocean would not be impacted, nor would adjacent property owners.

2. The Modification is consistent with the purposes and intent of the Zoning Ordinance and would secure an appropriate improvement on the property. The accessory structure would not exceed the total size of accessory structures allowed on a single family zoned lot. The proposed development would encroach into the northern front yard which is comprised of a steep slope that ascends to the public road. The development would not be visible from the public road.
3. The new accessory structure would be located behind the line of the western facing side of the residence, where the formal entry way is located. By siting the new accessory structure in this manner, it would be visually subordinate to the residence when viewed from the public road along the western property line. It would not be seen from Sea Ranch Road along the northern property line since this portion of the road is approximately 40 feet above the project site. Finally the location of the building would exceed the required front setback from the western property line by another 28 feet and from the northern property line by an additional 32 feet.

B. Coastal Development Permit (SBMC §28.44.150)

1. The project is consistent with the policies of the California Coastal Act.

The proposed development would be located on a residential lot and there is no public access trails on the site or nearby public recreation that would be impacted by the project development.

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.

The proposed development is less than 500 square feet and would be located on a developed portion of a residential lot. There would be no view impacts to or from the ocean, given the location of the accessory structures. There would be no grading on steep slopes or removal of native vegetation. Therefore, the project would be consistent with these findings.

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

- 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 any land use conditions imposed by the Staff Hearing Officer have been satisfied.

- 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 April 21, 2010 is limited to for an "as-built" 139 net square foot detached accessory building and a 334 net square foot detached artist studio, with a half bath (sink & toilet). Grading for the project will be 20 cubic yards of cut and the improvements shown on the Site Plan 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.
- 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 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 will prepare said agreement for the Owner's signature.
- D. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
1. **Zoning Compliance Declaration.** The Owner shall file a Zoning Compliance Declaration to assure that accessory structure shall not be converted to habitable use.
- E. **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 B above.
 2. **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. |

F. **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. **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 |
| Cesar Chavez Day | March 31 st |
| 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.

2. **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.
3. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
4. **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 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.

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.

- G. **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.

- H. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer approval of the Project is ultimately 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.

NOTICE OF APPROVAL TIME LIMITS:

The Staff Hearing Officer's action approving the Modification 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 within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.


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 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 application, unless otherwise specified by state or federal law.

NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

Pursuant to Section 28.44.230 of the Santa Barbara Municipal Code, work on the approved development shall commence within two years of the final action on the application, unless a different time is specified in the Coastal Development Permit. Up to three (3) one-year extensions may be granted by the Community Development Director in accordance with the procedures specified in Subsection 28.44.230.B of the Santa Barbara Municipal Code.

This motion was passed and adopted on the 21st day of April, 2009 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

4-27-2010

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 Architectural Board of Review (ABR) 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 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.