



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 020-15
3433 AND 3443 SEA LEDGE LANE
COASTAL DEVELOPMENT PERMIT
APRIL 1, 2015

APPLICATION OF ALICIA HARRISON, AGENT FOR JL TRUST AND DUNLAP FAMILY TRUST, 3433 AND 3443 SEA LEDGE LANE, APNS: 047-082-005 AND 047-082-006, A-1/SD-3 (ONE FAMILY RESIDENCE AND COASTAL OVERLAY) ZONES, LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL – ONE UNIT PER ACRE (MST2015-00019)

The project consists of the repair of a slope failure located between the upper and lower portions of Sea Ledge Lane, which is a private road accessed off of Cliff Drive. The repairs include the installation of a retaining wall system, including micro-piles and tiebacks, that is 67 feet long with a maximum height of six feet; drainage improvements that tie into the existing drainage system; and new landscaping with temporary irrigation for erosion control and visual screening of the new retaining wall.

This work was permitted by the City through an emergency permit and construction is underway. Pursuant to SBMC §28.44.100.E(5), an application for a formal coastal development permit must be filed within 90 days of the issuance of the emergency permit. Any development constructed pursuant to an emergency permit shall be considered temporary until authorized by subsequent coastal development permit, and issuance of an emergency permit does not constitute an entitlement to said development.

The discretionary application required for this project is a Coastal Development Permit (CDP2015-00002) 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 15303.

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 either in favor or in opposition of the application thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 25, 2015.
2. Site Plans

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer approved the requested Coastal Development Permit making the following findings and determinations:

I. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

- A. The project is consistent with the policies of the California Coastal Act because it does not adversely affect coastal access, recreation, the marine environment, or land resources, and is consistent with policies for new development, as described in Section VI of the Staff Report dated March 25, 2015.
- B. 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 because the project is a repair to an existing, unstable slope and has been designed so as to minimize impacts on the area, as described in Section VI of the Staff Report dated March 25, 2015.

II. Said approval is subject to the following Conditions of Approval:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

- 1. Record any required documents (see Sections B and D.1).
- 2. Obtain all required design review approvals.

Details on implementation of these steps are provided throughout the Conditions of Approval.

- B. **Recorded Conditions Agreement.** The Owner of each property 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 Staff Hearing Officer on April 1, 2015 is limited to repair of a failed slope located between the upper and lower portions of Sea Ledge Lane, and including installation of a retaining wall system that is 67 feet in length and up to six feet in height, drainage improvements that tie into the existing drainage system and new landscaping for erosion control, as shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
- 2. **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.

3. **Drainage Systems Maintenance.** Owner shall maintain the drainage system in a functioning state. Should any of the project's surface or subsurface drainage structures fail 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.
 4. **Sewer Connection Requirement.** Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
 5. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, 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, including public improvements, 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 Staff Hearing Officer land use condition has been satisfied.
1. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology. Watering of vegetation on the slope shall be kept to the minimum necessary for plant establishment. The drip system along the slope shall be removed after one full season of plant growth.

D. Requirements Prior to Final Approval. The Owners shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to Final Approval by the SFDB. 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 for each property – APN 047-082-005 and APN 047-082-006 - 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. **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.

E. General Conditions.

1. **Prior Conditions.** These conditions are in addition to the conditions identified in any prior Planning Commission Resolution for either property.

2. **Annual Report.** A statement on the performance and required maintenance of the retaining wall system shall be included in the annual report to the City required by Planning Commission Resolution 08-87.

3. **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.

4. **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 Staff Hearing Officer.
 - 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.
5. **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.

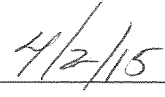
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions 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 1st day of April, 2015 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.



Kathleen Goo, Staff Hearing Officer Secretary



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 COASTAL DEVELOPMENT PERMIT TIME LIMITS:**

The Staff Hearing Officer 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.