



City of Santa Barbara

STAFF HEARING OFFICER

MINUTES

FEBRUARY 28, 2018

9:00 A.M.

David Gebhard Public Meeting Room
630 Garden Street
SantaBarbaraCA.gov

STAFF:

Susan Reardon, Staff Hearing Officer/Senior Planner
Kathleen Goo, Commission Secretary

CALL TO ORDER

Ms. Reardon called the meeting to order at 9:01 a.m.

STAFF PRESENT

Susan Reardon, Staff Hearing Officer/Senior Planner
Tava Ostrenger, Assistant City Attorney
Stephanie Swanson, Assistant Planner
Kathleen Goo, Commission Secretary

I. PRELIMINARY MATTERS

A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

No requests.

B. Announcements and appeals.

No announcements.

C. Comments from members of the public pertaining to items not on this agenda.

No public comment.

II. CONSENT ITEMS

ACTUAL TIME: 9:01 A.M.

A. APPLICATION OF RAYMOND APPLETON, APPLICANT FOR DOUGLAS CASSELMAN, PROPERTY OWNER AT 1032 DEL SOL AVENUE, APN 045-071-008, R-2/SD-3 TWO FAMILY RESIDENCE AND COASTAL OVERLAY ZONES, LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: RESIDENTIAL 12 UNITS PER ACRE (MST2017-00860 AND CDP2018-00001)

The project would convert the existing 272 square foot detached accessory building to an accessory dwelling unit pursuant to Government Code 65852.2. No exterior alterations are proposed. Interior alterations to add permanent cooking and bathing facilities are proposed. The existing 1,768 square foot single-unit residence and detached two car garage on the 5,836 square foot lot in the Non-Appealable Jurisdiction of the Coastal Zone and R-2 zone would remain unaltered. Additional parking is not required or proposed.

The project is located within the Non-Appealable Jurisdiction of the City's Coastal Zone and because the new ADU is detached from the main residence, a Coastal Development Permit is required.

Pursuant to SBMC 28.44.110, when a proposed development only involves the addition of a secondary dwelling unit to an existing single-family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendar days after notice has been provided. The Staff Hearing Officer may receive and consider written comments from the public, but without a public hearing. The decision will be the final action of the City (i.e., not appealable).

The discretionary application required for this project is a Coastal Development Permit (CDP2018-00001) for a secondary dwelling unit (SBMC §28.44).

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

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

ACTION: **Assigned Resolution No. 007-18**
Approved the Coastal Development Permit, making the findings as outlined in the Staff Report dated February 21, 2018.

Said approval is subject to the conditions as outlined in the Staff Report dated February 21, 2018.

III. PROJECTS**ACTUAL TIME: 9:05 A.M.****A. APPLICATION OF JILL HORTON, AGENT FOR K & L TRUST 8/31/09, 1520 FRANCESCHI ROAD, APN 019-102-039, RS-25 (RESIDENTIAL SINGLE UNIT, 25,000 SQUARE FOOT MINIMUM LOT SIZE), GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MAX. 2 DU/ACRE) (MST2017-00853)**

The 19,750 square-foot site is currently developed with a two-story 2,686 square foot single family residence, attached two-car garage, and accessory storage space. The existing residence has both upper and lower level south-facing decks that are non-conforming to the primary front setback. The proposed project involves a stairway addition from the existing south-facing, lower level deck to an existing, on-grade concrete patio.

The discretionary application under the jurisdiction of the Staff Hearing Officer required for this project is:

1. Primary Front Setback Modification to allow the proposed stairway to encroach into the primary front setback facing Franceschi Road (SBMC §30.20.030.A, SBMC §30.20.030.B.1, and SBMC §30.250.030.B).

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 15305 (Minor Alterations in Land Use Limitations).

Stephanie Swanson, Assistant Planner, gave the Staff presentation and recommendation.

Jill Horton, Agent for Owner, gave the Applicant presentation.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Public comment opened at 9:06 a.m., and as no one wished to speak, it closed.

ACTION: **Assigned Resolution No. 008-18**
Approved the Primary Front Setback Modification, making the findings as outlined in the Staff Report dated February 19, 2018, and as revised at the hearing.

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

ACTUAL TIME: 9:10 A.M.

B. APPLICATION OF GREG JENKINS, ARCHITECT FOR JAMES BASTIAN, 1935 BATH STREET, APN 025-352-006, R-MH (RESIDENTIAL MULTI-UNIT AND HOTEL), GENERAL PLAN DESIGNATION: MEDIUM HIGH DENSITY RESIDENTIAL (15-27 DU/ACRE) (MST2016-00336)

The 8,421 square-foot site is currently developed with a single family residence, a detached one-car garage, and "as-built" one-car carport. The garage and carport have been converted to a 655 square foot Accessory Dwelling Unit without the benefit of permits. The proposed project involves legalization of the "as-built" conversion, removal of an "as-built" window, and hedge trimming to maintain a three and a half foot hedge height within ten feet of the alley to the rear of the property and within ten feet of the driveway facing Bath Street. An elm tree in the rear yard with the diameter breast height of 22 inches is proposed for removal. The project would abate all violations listed in ZIR2016-00040 and ENF2016-00156, including the removal of an unpermitted fabric carport. Two tandem spaces in the existing driveway are proposed to replace the required parking for the primary residence, pursuant to California Government Code Section 65852.2.

The discretionary application under the jurisdiction of the Staff Hearing Officer required for this project is:

1. Interior Setback Modification to allow the legalization of the "as-built" conversion of a carport to accessory space within the interior setback (SBMC §30.20.030.A and SBMC §30.250.030.B).

The garage conversion in the interior setback is exempt from Modification requirements and is being pursued under California Government Code Section 65852.2; however, the Government Code does not apply to the conversion of carports.

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 15305 (Minor Alterations in Land Use Limitations).

Stephanie Swanson, Assistant Planner, gave the Staff presentation and recommendation.

Greg Jenkins, Architect, gave the Applicant presentation.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Public comment opened at 9:17 a.m., and as no one wished to speak, it closed.

ACTION:**Assigned Resolution No. 009-18**

Approved the Interior Setback Modification, making the findings as outlined in the Staff Report dated February 19, 2018, and as revised at the hearing.

Said approval is subject to the conditions as outlined in the Staff Report dated February 19, 2018, and as revised at the hearing.

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

ACTUAL TIME: 9:22 A.M.

C. APPLICATION OF HUBBARD 2003 LIVING TRUST 2003 LIVI, PROPERTY OWNER OF 758 JUANITA AVENUE, APN 035-073-010, RS-15 (RESIDENTIAL SINGLE UNIT, 15,000 SQUARE FOOT MINIMUM LOT SIZE), GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MAX 3 DU/ACRE) (MST2017-00786)

The 12,884 square-foot site is currently developed with a one-story 1,145 square foot (net) single family residence and attached two-car garage. The existing residence is non-conforming to the northeastern interior setback by approximately six inches. The proposed project involves a 914 square foot residential addition that would continue the non-conforming plane for approximately 32 feet in the interior setback (13.8 square feet). An existing wood wall beneath an existing fence is proposed for replacement with a block wall, ranging in height from three and a half feet to six feet, and with a six foot wood fence atop it. The proposed wall and fence height will require a Minor Zoning Exception to be reviewed and approved by the Single Family Design Review Board.

The discretionary application under the jurisdiction of the Staff Hearing Officer required for this project is:

1. Interior Setback Modification to allow the proposed residential addition to encroach into the required ten foot northern interior setback (SBMC §30.20.030.A and SBMC §30.250.030.B).

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 15305 (Minor Alterations in Land Use Limitations).

Stephanie Swanson, Assistant Planner, gave the Staff presentation and recommendation.

Cliff Hubbard, Owner, gave the Applicant presentation.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Public comment opened at 9:25 a.m., and as no one wished to speak, it closed.

A letter of support from Elaine Levy was received by staff and acknowledged.

ACTION: **Assigned Resolution No. 010-17**
Approved the Interior Setback Modification, making the findings as outlined in the Staff Report dated February 19, 2018.

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

ACTUAL TIME: 9:27 A.M.

D. NOTICE OF HEARING TO REVOKE THE APPLICATION OF JOSEPH ALLEN, 3617 STATE STREET, APN: 051-051-005, C-P/SD-2 RESTRICTED COMMERCIAL/SPECIAL DISTRICT 2 ("UPPER STATE STREET AREA") ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH RESIDENTIAL (MST2014-00438)

The subject of this hearing is consideration to revoke a Medical Marijuana Storefront Collective Dispensary Permit application approved by the Planning Commission on June 4, 2015 per SBMC Chapter 28.80 and SBMC section 30.185.250. The dispensary would be located in an existing tenant space in Ontare Plaza. Interior improvements are proposed.

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

The following persons were present: Susan Reardon, Staff Hearing Officer and Tava Ostrenger, Assistant City Attorney, Counsel to the Community Development Department.

Fernando Velez, Jr. and Luis Esparza, Attorney's for the Management Members, were not present and did not present any written evidence or testimony.

Ms. Ostrenger submitted a Brief with Exhibits A-H to the Staff Hearing Officer, and stated she provided the Brief with Exhibits to the applicants via their attorney Luis Esparza on February 21, 2018. Ms. Ostrenger also stated that: their attorney was sent the Notice of Hearing and Intent to Revoke the Permit on November 3, 2017; the hearing was noticed with a legal advertisement placed in the local paper as required by the Brown Act; and, the Applicant and appropriate legal representatives were sent email reminders and phone calls regarding today's hearing on this item.

Ms. Ostrenger presented the City's testimony and evidence citing the fact that the applicants no longer had possession of the property and have not had possession of the property since February 24, 2017, and as required per Code Section 28.80.130.A, storefront collective dispensary permits are site specific and without possession of the property the permit is void.

Ms. Ostrenger stated that as there is an active appeal on file with the City Council regarding a previous Intent to Revoke this Permit, but that the subject of the today's hearing is to clarify the issue that the Permit is void and to request a formal decision by the Staff Hearing Officer.

Public comment opened at 9:29 a.m., and as no one wished to speak, it closed.

Ms. Ostrenger stated she received a public comment email after the start of this public hearing and has forwarded it to the Staff Hearing Officer Commission Secretary for distribution at this hearing. This letter in support of the revocation from Gordon Brewer, Jordan Brewer, and Judy Williams was received and acknowledged by Ms. Reardon.

Ms. Reardon indicated that she reviewed the City Attorney's evidence and that it is clear from the submitted evidence that the SB Patients Collective and Healing Center does not have a current lease for the property and that the property owner has no intention of leasing the property to them in the future.

Given that the Permit is site specific and that no evidence or testimony to the contrary was provided, Ms. Reardon determined that Permit is void and revoked the permit.

Ms. Reardon announced she would provide her written decision within 10 days.

IV. ADJOURNMENT

Ms. Reardon adjourned the meeting at 9:35 a.m.

Submitted by,



Kathleen Goo, Commission Secretary