



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 002-18

240 MOHAWK ROAD

MODIFICATIONS AND COASTAL DEVELOPMENT PERMIT

JANUARY 17, 2018

APPLICATION OF RICHELE MAILAND, APPLICANT FOR JOSEPH L. GAGNON REVOCABLE TRUST, 240 MOHAWK ROAD, APN 041-326-009, E-3/S-D-3 ZONES, LOCAL COASTAL PROGRAM AND LAND USE PLAN DESIGNATION: RESIDENTIAL, 5 UNITS PER ACRE (MST2017-00547)

The project includes the conversion of an existing 281 net square foot detached garage to an Accessory Dwelling Unit (ADU) pursuant to Government Code 65852.2. As part of the conversion of garage to an ADU, a new roof with an increased roof pitch is proposed, as well as a new window and the conversion of a portion of the structure to storage space. The project also proposes a 228 net square foot addition to the structure, the construction of a new patio cover, and two uncovered parking spaces in a tandem configuration on a repaved driveway. The existing garage to be converted into the ADU and the proposed addition are located within the required interior setbacks and, therefore, require approval of Interior Setback Modifications.

The project is located within the Non-Appealable Jurisdiction of the City's Coastal Zone and, because the new ADU created is detached, a Coastal Development Permit is required for the ADU per Coastal Commission Memorandum dated April 18, 2017 (New Accessory Dwelling Unit Legislation).

The discretionary applications required for this project are:

1. An Interior Setback Modification along the northern property line to allow a change to the roof pitch and conversion from a garage to storage for a nonconforming structure located within the required six-foot interior setback (SBMC §28.92.110);
2. An Interior Setback Modification along the eastern (rear) property line to allow a change to the roof pitch, a new window and an extension of the existing nonconforming structure with a new window located within the required six-foot interior setback (SBMC §28.92.110); and
3. A Coastal Development Permit (CDP2017-00007) to allow a detached Accessory Dwelling Unit in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

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.

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.

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

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

1. Staff Report with Attachments, January 10, 2018.
2. Site Plans

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

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

A. INTERIOR SETBACK MODIFICATIONS

The two interior setback modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lot and promote uniformity of improvement. The proposed conversion and addition will allow for a new Accessory Dwelling Unit within an existing nonconforming structure, will allow for improvements to the existing structure which are appropriate improvements on the lot without further encroachment into the nonconforming interior setbacks, and will allow for an addition to the structure that continues the existing building plane along the rear property line.

B. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

1. The project is consistent with the policies of the California Coastal Act because it does not result in any adverse effects related to coastal resources, including views and public access, as described in Section VI of the Staff Report. The proposed development is located within an existing developed area that is able to accommodate said 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 because the new accessory dwelling unit is compatible with the existing neighborhood, will not overburden on-street parking resources, will not impact views from public view corridors, will not impact public access, and is not located on a coastal bluff or in an archaeological sensitivity zone, as described in Section VI of the Staff Report.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real

property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
1. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
 2. Record any required documents (see Recorded Conditions Agreement section).
 3. Permits.
 - a. Submit an application for and obtain Building Permits for construction of approved development and complete said development.
 - b. Submit an application for and obtain a Public Works Permit for all required public improvements and complete said improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney and Community Development 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 January 18, 2018 is limited to the conversion of the garage to an Accessory Dwelling Unit and a 228 net square foot addition to the accessory dwelling unit as shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
 2. **Accessory Dwelling Unit.** The accessory dwelling unit shall not be sold separately from the primary residential unit, and shall be rented for more than 30 consecutive days.
 3. **Owner Occupancy Required.** The owner of the lot shall occupy either the primary residential unit or the accessory dwelling unit as his or her primary residence.
 4. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 5. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
 6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks

Division. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, 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.

- C. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. 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 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.
 - b. **Public Works Permit:** A Public Works Permit is required for the removal and replacement of the existing driveway apron, the existing sewer lateral and sewer wye connection (PRE2017-01185) and any other public improvements in the Public Right-of-Way inclusive of Temporary Traffic Control.
 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. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the building permit plan set. A statement shall also be placed on the sheet as follows:

The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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.

- c. **Fixed Windows.** All windows located in the interior setbacks shall be fixed.
- d. **Solar Access.** The plans shall show compliance with the Solar Access Ordinance.

D. 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, including demolition and grading.

1. **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) name and telephone number(s) to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. 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 six square feet in a single family zone.
2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
3. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: 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. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner 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.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

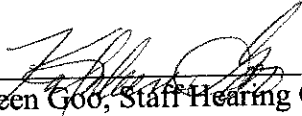
- E. Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. 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 public improvement plans or building plans, shall be completed.
- F. General Conditions.**
1. **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.
 2. **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.

III. APPROVAL TIME LIMITS

- A. **NOTICE OF MODIFICATION APPROVAL TIME LIMITS:**The Staff Hearing Officer action approving the Modifications 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 and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
- B. **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.
- C. **NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):**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 land use 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 longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

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 God, Staff Hearing Officer Secretary

1/19/18

Date.

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission 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. **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.