



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 026-21

1 MESA LANE

MODIFICATION AND COASTAL DEVELOPMENT PERMIT

JUNE 2, 2021

**APPLICATION OF DYLAN HENDERSON AND KEVIN CAPPON, AGENTS FOR ALLEN R. WHITE III REVOCABLE TRUST, 1 MESA LANE, APN 041-330-012, E-3/S-D-3 (ONE-FAMILY RESIDENTIAL/ COASTAL OVERLAY) ZONE, GENERAL AND COASTAL LAND USE PLAN DESIGNATION: LOW DENSITY RESIDENTIAL, 5 DWELLING UNITS/ACRE (PLN2020-00377)**

The project consists of demolishing an existing detached garage and constructing a new 742-net-square-foot detached garage with a two-story 1,152-net-square-foot Accessory Dwelling Unit attached to and above the new garage, along with a 560-net-square-foot second story deck for the Accessory Dwelling Unit. Two acacia trees are proposed for removal, and an oak tree is proposed to be relocated on-site. An "as-built" trash enclosure located within the interior setback is proposed to be demolished, as well. No changes to the existing residence are proposed. The subject parcel is zoned E-3/S-D-3 (One-Family Residence/Coastal Overlay Zones) and is located primarily in the Appealable Jurisdiction of the Coastal Zone, with a small portion at the toe of the bluff located in the Coastal Commission's Original Permit Jurisdiction; all work is proposed within the Appealable Jurisdiction.

The discretionary applications required for this project are:

1. A Modification to allow construction of an accessory building within the front yard (SBMC §28.87.160 and §28.92.110); and
2. A Coastal Development Permit (CDP2020-00010) 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 categorically exempt from further environmental review pursuant to California Environmental Quality Act Guidelines Section 15303 (New Construction or Conversion of Small Structures). Section 15303 allows for construction of one single-family residence or a second dwelling unit in a residential zone.

The Modification itself can be found exempt from CEQA under Section 15305 (Minor Alterations in Land Use Limitations) per the City's list of projects that qualify for a categorical exemption (SBMC §22.100.070.C.5.e).

**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 in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 27 2021
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. FRONT YARD MODIFICATION (SBMC §28.92.110)**

1. The Staff Hearing Officer finds that the front yard modification is consistent with the purpose and intent of the zoning ordinance, specifically the intent to provide building relief between the right-of-way and private development and to avoid having accessory structures as the dominant interface with the street, and that the modification is an appropriate improvement on the lot.

The proposed garage and Accessory Dwelling Unit would be located farther north, towards the front of the parcel, than the existing garage proposed for demolition. This is the logical place for new development on the lot, as the southern portion of the lot is a coastal bluff. The area proposed for development is flat and suitable for development. Privacy impacts in the neighborhood and from the public beach are not anticipated, as the subject parcel is lined with landscaping and fencing. There is also a pattern of Accessory Dwelling Units being constructed in the neighborhood in general.

2. No Tentative Subdivision Map, Conditional Use Permit, Development Plan, Site Plan, or any other application that requires Planning Commission approval is proposed in conjunction with the Front Yard Modification.
3. The project is not anticipated to significantly affect persons or property owners other than those entitled to notice.

**B. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

1. The project is consistent with the policies of the California Coastal Act, as described in section VI of the staff report dated May 26, 2021. The proposal will not result in any adverse effects related to coastal resources, including public views, public access to the coast, and coastal bluff erosion. The proposed development is located within an existing developed area that is able to accommodate it, and both parking and open space minimum requirements will be maintained for the primary residence.
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, as described in section VI of the staff report dated May 26, 2021. The proposed Accessory Dwelling Unit is compatible with neighborhood development, will not impact any public views or public access to the coast, and is not located on a coastal bluff or any visual, biological, or archaeological sensitive areas.

**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. 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 June 2, 2021 is limited to demolishing an existing detached garage and constructing a new 742-net-square-foot detached garage with a two-story 1,152-net-square-foot Accessory Dwelling Unit attached to and above the new garage, along with a 560-net-square-foot second story deck for the Accessory Dwelling Unit. Two acacia trees are proposed for removal, and an oak tree is proposed to be relocated on-site. An “as-built” trash enclosure located within the interior setback is proposed to be demolished. No changes to the existing residence are proposed.

This approval is limited to the above project description and the improvements shown on the plans 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 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.
3. **Accessory Dwelling Unit Restrictions.** The Accessory Dwelling Unit shall remain at all times consistent with the City’s Ordinance requirements.
4. **Accessory Dwelling Unit Covenant.** The Owner shall provide evidence of recordation of the written instrument(s) that include all requirements of Accessory Dwelling Units required at the time of building permit plan check. These condition may include, but are not limited to:
  - a. The accessory dwelling unit shall not be sold separately from the primary residential unit, and
  - b. The accessory dwelling unit shall not be rented for less than 31 days.

Planning staff will give the owner the most up-to-date template at the time of building permit plan check. Recordation will be required prior to the issuance of any building permits.

5. **Coastal Bluff Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from waves during storms and 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.

6. **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.

**B. 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 conditions have been satisfied.

1. **Tree Relocation.** The existing oak tree shall be relocated on the Real Property and shall be fenced three feet outside the dripline and protected during construction.

**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. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. 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. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.

**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 A "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 B "Design Review," and all elements/specifications shall be implemented on-site.
- c. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. The following statement shall be signed prior to issuance of and permits: 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:

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| Property Owner |  | Date |
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| Contractor | Date | License No. |
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| Architect | Date | License No. |
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| Engineer | Date | License No. |
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**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, contractor(s) telephone number(s), construction work hours, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. 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. At no point will the coastal public beach access (Mesa Lane Steps) be blocked.

3. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. At no point will the coastal public beach access (Mesa Lane Steps) be blocked.
4. **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.

**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. TIME LIMITS:

#### A. NOTICE OF MODIFICATION APPROVAL TIME LIMITS:

The Staff Hearing Officer action approving the Conditional Use Permit, Modification, Performance Standard Permit, or Variance shall terminate three (3) years from the effective date of the approval, per Santa Barbara Municipal Code §30.205.120, 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 (SBMC § 30.205.120):**

If a project requires multiple discretionary permits or approvals, the expiration date shall be measured from date of final action of the City on the longest discretionary approval permit or approval related to the application (excluding design review approval), unless otherwise specified by State or federal law.

This motion was passed and adopted on the 2<sup>nd</sup> day of June, 2021 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.

  
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Kathleen Goo, Commission Secretary

*June 4, 2021*  
\_\_\_\_\_  
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 and Coastal Development Permit 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 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 §30.205.120, 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.