CITY OF SANTA BARBARA STAFF HEARING OFFICER
RESOLUTION NO. 002-20
1440 PACIFIC AVE
COASTAL DEVELOPMENT PERMIT
FEBRUARY 26, 2020

APPLICATION OF JOSE LUIS ESPARZA, APPLICANT FOR MICHAEL AND JULIA FINUCAN, 1440 PACIFIC AVENUE, APN 045-183-001, E-3/S-D-3 ZONE, LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: SUBURBAN RESIDENTIAL (5 DWELLING UNITS/ACRE (PLN2018-00481)

Proposal for an approximately 1,200 square foot two-story Accessory Dwelling Unit (ADU) and an approximately 406 square foot two-car garage in a new detached building, a new driveway to the proposed garage on the north side of the lot, and a new uncovered parking space for the ADU accessed from the north side of the lot. The project includes demolition of the existing detached two-car garage and two small detached accessory buildings. The existing 1,080 square foot one-story primary dwelling is proposed to remain unaltered. The project is located in the Non-Appealable jurisdiction of the Coastal Zone.

The discretionary application required for this project is a Coastal Development Permit (CDP2018-00018) to allow the proposed development in the Non-appealable Jurisdiction of the City’s Coastal Zone (SBMC §28.44.060).

The project requires an environmental finding pursuant to California Environmental Quality Act Guidelines Section 15183.

WHEREAS, pursuant to SBMC §28.44.110 the Staff Hearing Officer announced a decision on the above application.

WHEREAS, the following exhibits were presented for the record:

1. Staff Report with Attachments, February 20, 2020
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. ENVIRONMENTAL REVIEW (CEQA GUIDELINES §15183)

The project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA Certificate of Determination on file for this project.
B. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

1. The project is consistent with policies of the California Coastal Act because it does not result in any adverse effects related to coastal resources, including public views and potential geologic hazards. The proposed development is located within an existing urbanized area equipped with municipal water and sewer services that are able to accommodate said development, as discussed in Section VI.B.2 of the staff report.

2. The project is consistent with all applicable policies of the City’s Coastal Land Use Plan, all implementing guidelines, and all applicable provisions of the Code because the new ADU is compatible with the existing neighborhood, will not impact views from public view corridors, and is not located on a coastal bluff, as discussed in Section VI.B.3 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. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with Condition D “Construction Implementation Requirements.”

4. The existing abandoned oil well on the property shall be located and surveyed. Provide the survey locations in Latitude and Longitude, NAD 83 decimal format to the California Geologic Energy Management Division and accurately indicate the well’s location on the project plans. The placement of the new development on the site must comply with all requirements related to the oil well. The development shall comply with Condition B.2 to provide adequate clearance for oil rig equipment to access the oil well.
5. Permits.
   a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
   b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.
   c. Obtain any permits or approvals required from the California Geologic Energy Management Division (CalGEM).

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, 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 February 26, 2020 is limited to the construction of a detached approximately 1,606-square-foot two-story building containing an Accessory Dwelling Unit and two-car garage with new driveway, altered existing driveway, new uncovered parking space as shown on the site plan signed by the Staff Hearing Officer on February 26, 2019 and on file at the City of Santa Barbara.

2. Access to Oil Well. Access to the oil well shall be provided and maintained. Access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A minimum ten-foot radius clearance shall be maintained between the oil well and the Accessory Dwelling Unit/garage building, and a minimum 20 foot by 50 foot clear area accessed from Pacific Avenue to provide access for oil rig equipment if future re-abandonment or other well work is required, as described in the letter dated December 3, 2019 from Miocene Incorporated Engineering and Operating Services regarding Recommended Stand Back from Abandoned Well AS Mayes No.1, API 083-03674, Mesa Oil Field, Lot #50A APN 045-183-001, Fair Acres on the Mesa, Santa Barbara, California.

3. Owner Liability for Abandoned Oil Well. The development of the new Accessory Dwelling Unit and garage building, and associated improvements is in proximity to an abandoned oil well on the property. The requirements of Public Resources Code Section 3208.1 may apply if access to the well is impeded or the well integrity is disturbed due to development. Owner will indemnify and hold the City harmless against any claim or causes of action that may arise now or in the future, relating to the construction and location of the approved development adjacent to the oil well.
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.

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. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.

2. **Community Development Department.**
   a. **Reduce Paving.** The amount of paving for the existing driveway from Santa Rosa Avenue and proposed uncovered parking space shall be reduced to the minimum amount necessary as determined by the Transportation Division of the Public Works Department. All portions of the existing driveway paving in front of the residence indicated as “Primary Residence” on the site plan which is not necessary to meet the required minimum shall be removed and replaced with landscaping to reduce the amount of impervious paving on the site.

   b. **Palm Tree.** The existing palm tree along the Santa Rosa Avenue street frontage in the area of the proposed driveway for the two-car garage shall be shown on the site plan and indicated whether it is to remain or be removed. If it is proposed for removal or is removed, the removal shall be reviewed and approved by the Parks Commission. If the Parks Commission denies its removal, the site plan shall be revised so as the palm tree will remain.

   c. **Site Plan Corrections.** As BLD2017-01179 has not received final inspection sign-off from the City and not all of the improvements associated with that permit have been constructed, indicate on the site plan that the six foot tall fence along the Pacific Avenue frontage, the six foot tall fence adjacent to the proposed uncovered parking space, the trash enclosure at the end of the proposed uncovered parking space, and the hot tub are included in that permit.
d. **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 permit.

e. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87. The Owner shall submit permeable paver cross-section and specification demonstrating that the new development will comply with the City’s Storm Water BMP Guidance Manual. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no unpermitted construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.

f. **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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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) and telephone number(s), construction work hours, site rules, 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.

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 Oil Wells. If during development activities any wells are encountered that were not part of this project’s review, CalGEM shall be notified immediately, and an amended site plan with well casing diagrams for CalGEM review shall be filed.

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.

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. California Geologic Energy Management Division Recommendations. The project shall adhere to the recommendations of the California Geologic Energy Management Division (CalGEM):

a. The project is subject to Public Resources Code §3208.1. CalGEM has the authority to order or permit re-abandonment of the well.

b. A CalGEM representative shall observe the well to document the condition and location of the top of the exposed well and inspect for liquid and/or gas leakage. The project is subject to Public Resources Code §3224.

c. Information regarding the oil well and any other pertinent information obtained during the development shall be communicated to the County Recorder for inclusion in the title information for the subject real property.

d. Any soil containing hydrocarbons shall be disposed of in accordance with local, state, and federal laws. Appropriate authorities shall be notified if soil containing significant amounts of hydrocarbons is discovered during development.
The well shall be tested for liquid and gas leakage prior to commencement of construction.

Access on the property to the oil well for oil rig equipment shall not be impeded by the approved project or other new development.

CalGEM has jurisdictional authority over the oil well pursuant to Public Resources Code §3106. No well work may be performed on the well without prior written approval from CalGEM.

3. 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.

4. Litigation Indemnification Agreement. In the event the Staff Hearing Officer approval of the Project is appealed to the Planning Commission, and subsequently 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.

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.

This motion was passed and adopted on the 26th day of February, 2020 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.

Mary Ternovskaya, Commission Secretary

Date

PLEASE BE ADVISED:

1. The decision of the Staff Hearing Officer concerning an application for a Coastal Development pursuant to Santa Barbara Municipal Code §28.44.110.C constitutes the final action of the City. In the appealable area of the Coastal Zone only, the decision of the Staff Hearing Officer made pursuant to Santa Barbara Municipal Code §28.28.44.110.C may be appealed to the Coastal Commission in accordance with SBMC §28.44.200.

2. If the scope of work exceeds the extent described in the Coastal Development Permit request, 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.