



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 028-08
22545 MEDCLIFF ROAD
COASTAL DEVELOPMENT PERMIT
JULY 24, 2008

APPLICATION OF BRYAN POLLARD, ARCHITECT FOR ANDREW ERICKSON AND FELICIA KASHEVAROFF, 2545 MEDCLIFF ROAD, APN 041-362-001, E-3/SD-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, 5 UNITS/ACRE (MST2007-00423, CDP2008-00010)

The project consists of as-built replacement of six windows and one sliding glass door with windows and a door in the same openings; as-built removal of an interior wall between the kitchen and dining area; replacement of an as-built sliding glass door with a new window in the same opening as the previous window; as-built picket fence in the rear yard; as-built six foot tall wood fence along western property line; replacement and reconfiguration of the fence in the front yard; new 241 square foot pergola; new 290 square foot wood deck over an existing concrete patio; two new rain barrels; and landscaping changes, including replacement of the existing rear lawn with drought tolerant, bluff stabilizing plants. The project would abate violations identified in enforcement case ENF2007-00570.

The discretionary application required for this project is:

A Coastal Development Permit (CDP2008-00010) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, no one 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, July 14, 2008
2. Site Plans
3. Correspondence received in support of the project:
 - a. Karen & Joe Buchanan, via email
4. Correspondence received in opposition to the project:
 - a. Karen & Joe Buchanan, via email
 - b. Paula Westbury, Santa Barbara

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

- I. Approved the subject application making the following findings and determinations:
 - A. **Coastal Development Permit (SBMC §28.44.150)**
 1. The project is consistent with the policies of the California Coastal Act; and
 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.
- II. Said approval is subject to the following conditions:
 - A. **Recorded Agreement.** Prior to the issuance of any Public Works Permit or Building Permit for the project on the Real Property, the Owner shall execute a written instrument, which shall be 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 Planning Commission on July 24, 2008 is limited to as-built replacement of six windows and one sliding glass door with windows and a door in the same openings; as-built removal of an interior wall between the kitchen and dining area; replacement of an as-built sliding glass door with a new window in the same opening as the previous window; as-built picket fence in the rear yard; as-built six foot tall wood fence along western property line; replacement and reconfiguration of the fence in the front yard; new 241 square foot pergola; new 290 square foot wood deck over an existing concrete patio; two new rain barrels; and landscaping changes, including replacement of the existing rear lawn with drought tolerant, bluff stabilizing plants; and all other improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat, 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 applicant shall submit a repair and restoration plan to the Community Development

Director to determine if an amendment or a new 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. **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.
- B. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **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 will prepare said agreement for the Owner's signature.
 2. **Medcliff Road Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Medcliff Road. As determined by the Public Works Department, the improvements shall include removal and replacement of one sidewalk panel to City standards, and the provision of adequate positive drainage from the site. Any work in the public right-of-way requires a Public Works Permit.
- C. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Unanticipated Archaeological Resources Contractor Notification.** 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 associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant 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.

2. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is 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. _____

- D. **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 damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) caused by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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 building plans, including utility service undergrounding and installation of street trees.
- E. **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 the City Council denial of the appeal and approval of 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 Planning Commission's action approving the Coastal Development Permit shall expire two years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

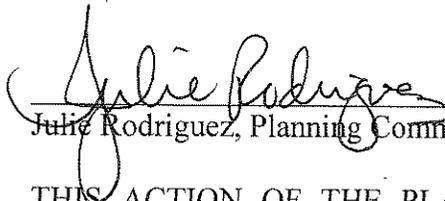
1. Otherwise explicitly modified by conditions of approval of the Coastal Development Permit.
2. Construction or use of the development has commenced.
3. A Building Permit for the work authorized by the Coastal Development Permit is issued prior to the expiration date of the approval, and such Building Permit remains valid.

4. A time extension is granted prior to Coastal Development Permit expiration. A one year time extension may be granted by the Community Development Director upon findings provided in Santa Barbara Municipal Code §28.44.230.B. Time extension applications must be submitted to the Community Development Director for consideration prior to Coastal Development Permit expiration. Not more than three time extensions may be granted.

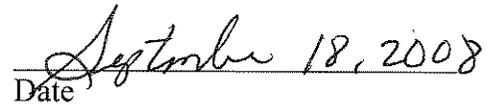
This motion was passed and adopted on the 24th day of July, 2008 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Larson, White)

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.



Julie Rodriguez, Planning Commission Secretary



Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.