



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 027-09

2215 EDGEWATER WAY

COASTAL DEVELOPMENT PERMIT, MODIFICATION

JUNE 18, 2009

APPLICATION OF RAYMOND APPLETON, AGENT FOR JOHN SHARRAT, 2215 EDGEWATER WAY, 041-350-014, E-3/SD-3 SINGLE FAMILY AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL/3 UNITS PER ACRE (MST2009-00085/CDP2009-00004)

Proposal to demolish an unpermitted single-family residence, detached accessory building, and two unpermitted decks and restore landscaping on a 42,127 square foot lot in the Hillside Design District and appealable jurisdiction of the Coastal Zone. The project would abate violations in enforcement case #ENF2008-00353. The chain link fencing has been removed from the bluff. The applicant proposes to leave in place as-built railroad tie and concrete steps that were built on-grade, but has already removed the above ground handrails. The applicant is proposing to allow the fencing and hedges to remain within the public right of way.

The discretionary applications required for this project are:

1. A Coastal Development Permit (CDP2009-00004) to allow the demolition of the as-built structures and permitting of the on-grade stairs, hedges, and fencing on a parcel located within 50 feet of a coastal bluff and within the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44); and
2. A Modification to allow a fence and hedge to exceed 3.5 feet within 10 feet of the front property line.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Demolition of small structures).

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, June 11, 2009
2. Site Plans
3. Correspondence received in support of the project:
 - a. Laura Bridley, via email
 - b. Bruce and Wanda Venturelli, via email

- c. John Thorngren, via email
- d. Sam Rya, via email
- 4. Correspondence received in opposition to the project:
 - a. Russell Ruiz, 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:

Fence and Hedge Height Modifications (SBMC §28.87.170 and §28.92.110.A.20)

The modification to allow a fence and hedge to exceed 3.5 feet in height within 10 feet of the front property line are consistent with the purpose and intent of the Zoning Ordinance, and are necessary to secure an appropriate improvement. The property frontage acts a secondary front yard for the adjacent lot owned by the same property owner and allows the owner to secure the vacant lot at the top of the lot.

Coastal Development Permit (SBMC §28.44)

With the removal of the fence, gate and hedge in the public right-of-way, and the approval of a modification to allow the installation of a fence and hedge exceeding 3.5 feet at the property line, the project is consistent with the policies of the California Coastal Act, the City's Local Coastal Plan, all implementing guidelines, and applicable provisions of the Code because the demolition of the bluff top structures would be compatible with the existing neighborhood, would restore natural bluff top vegetation and appearance, would not impact views from public view corridors, would not impact public access, and would improve safety or drainage hazards on the site and is not located on an archaeologically sensitive site, as described in Section V.B. of the Staff Report.

- II. Said approval is subject to the following conditions:

- A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied
 - 1. **Public Right of Way.** The existing improvements within the public right of way are to be removed (i.e.; gate, fencing, flat work, and hedges shall be relocated from the public right-of-way onto private property.
 - 2. **Hedge.** The relocated or replacement, if transplanting is not possible, shall be maintained at a height not to exceed 5 feet or the height of the existing fence located at 2211 Edgewater Way, whichever is lower, within 10 feet of the front property line and should be a species that is appropriate for bluff top plantings.

3. **Fence and Gate.** The relocated or replacement fence shall not exceed 5 feet or the height of the existing fence located at 2211 Edgewater Way, whichever is lower, within 10 feet of the front property line.
 4. **Appropriate Plants on Bluff.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the bluff and sloped areas. All existing succulent plants that add weight to the bluff and/or contribute to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion.
 5. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the bluff edge shall be kept to the minimum necessary for plant survival. The drip system along the bluff edge shall be removed after one full season of plant growth.
- B. **Recorded Conditions 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 June 18, 2009 is limited to the demolition of an unpermitted single-family residence, a detached accessory building, two unpermitted decks, the removal of an as-built six foot tall chain link fence and overheight hedge from the public right-of-way. The approval includes permitting as-built on-grade steps, and a modification to allow a fence and hedge within ten feet of the front lot line, at a location of the owner's election, up to a maximum height of five (5) feet or the height of the existing fence located at 2211 Edgewater, whichever is lower, the restoration of bluff top landscaping and the improvements shown on the site and landscape 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 onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
 4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any

reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:

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.
- C. **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. **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 (easement).
 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
 3. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager.
- D. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:

1. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.
2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

E. **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. **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., Archaeologist contract submitted to Community Development 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.

F. **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.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.

2. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager.
3. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
4. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
5. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 st
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number that is answered by a person, not a machine.

6. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are

- prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
- b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
 - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
7. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
 8. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
 9. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
 10. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 11. **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), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. 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 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
 12. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 13. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

14. **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.

- G. **Prior to Final Inspection.** Prior to final inspection of the building Permit, the Owner of the Real Property shall repair damaged public improvements. Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) 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.
- H. **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:

Pursuant to Section 28.44.230 of the Santa Barbara Municipal Code, work on the approved development shall commence within two years of the final action on the application, unless a different time is specified in the Coastal Development Permit. Up to three (3) one-year extensions may be granted by the Community Development Director in accordance with the procedures specified in Subsection 28.44.230.B of the Santa Barbara Municipal Code.

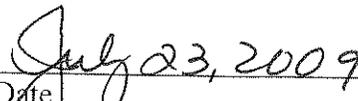
This motion was passed and adopted on the 18th day of June, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 6 NOES: 1 (Jacobs) ABSTAIN: 0 ABSENT: 0

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.

