



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 027-14 511 BROSIAN WAY COASTAL DEVELOPMENT PERMIT NOVEMBER 6, 2014

#### APPLICATION OF BRIAN CEARNAL, ARCHITECT FOR JOHN PARK, 511 BROSIAN WAY, APN 047-030-011, A-1 ZONE, LOCAL COASTAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MST2014-00149)(CDP2014-00011)

The project consists of the construction of a 5,886 square foot, two-story, single-family residence including an attached three-car garage on a vacant 2.2 acre lot in the Hillside Design District. The project includes a pool and spa, landscaping, 3,870 cubic yards of fill grading, and 510 yards of cut grading.

The discretionary application required for this project is a Coastal Development Permit to allow the proposed development in the 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 (Projects Consistent with the General Plan).

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

**WHEREAS**, two people appeared to speak in favor of the application, and two people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, October 30, 2014.
2. Site Plans
3. Correspondence received in support of the project:
  - a. Robert Forouzandeh, via email
  - b. Jennifer Conrow, via email
  - c. Thomas E. & Cynthia L. Evans, via email
  - d. Rosa Choi & Richard Chung, via email
4. Correspondence received in opposition to the project or with concerns:
  - a. Bob & Margaret Niehaus, via email
  - b. Jeff & Janna Young, via email
  - c. Walter Knapp, via email
  - d. Lori Rafferty, via email
  - e. Patricia Foley, via email
  - f. Shelley Bookspan, via email
  - g. Bob Bowski, via email

- h. Andrew Gottlieb, via email
- i. Dr. & Mrs. Ron Green, via email
- j. Patricia Marquart, via email

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

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

A. **ENVIRONMENTAL REVIEW**

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 the policies of the California Coastal Act because it does not result in any adverse effects related to coastal resources, including hazards, views and public access, as described in Section VI.B of the Staff Report.
- 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 project will not increase hazards related to sea cliff retreat or fire services, will not affect lateral access across the beach, will not impact public views, and is compatible with the neighborhood as described in Sections VI.B. and VIII of the Staff Report.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

- 1. Obtain all required design review approvals.
- 2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
- 3. Record any required documents (see Recorded Conditions Agreement section).
- 4. 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.

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 Planning Commission on November 6, 2014 is limited to the construction of a new

single-family residence totaling approximately 5,886 square feet of building area including the 750 square foot attached garage and the associated improvements shown on the plans signed by the chairperson of the Planning Commission 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. **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).
  4. **Landscape Plan Compliance.** The Owner shall maintain the required native riparian landscaping in the area between the existing asphalt road and the northern property line, along the drainage channel (the area is approximately 15'x 250'), as approved by the Creeks Division and the SFDB. The Owner shall also preserve, protect and maintain the existing oak trees to remain, as shown on the approved Landscape Plan. These specific landscaping elements on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping elements are removed for any reason without approval by the SFDB, the owner is responsible for their immediate replacement.
  5. **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 Coastal Development Permit are 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. **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 Planning Commission land use conditions have been satisfied.
1. **Native Riparian Landscape Plan.** Native riparian planting shall be installed and maintained in the area between the existing asphalt road and the property line along the drainage channel (the area is approximately 15'x 250') as approved by the Creeks Division and SFDB.
  2. **Tree Protection Measures.** The landscape plan (and grading plan) shall include the following tree protection measures:

- a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s), as determined by the SFDB.
  - b. **Oak Trees.** The following additional provisions shall apply to existing oak trees proposed to remain on site:
    - (1) No irrigation system shall be installed within three feet of the dripline of any oak tree.
    - (2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
    - (3) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.
3. **Exterior Lighting.** All exterior lighting shall conform to the City's Outdoor Lighting & Streetlight Design Guidelines. Exterior lighting shall be designed to control glare, minimize light trespass onto adjacent properties, and minimize direct upward light transmission.
  4. **Screened Backflow Device.** The backflow devices for fire hydrant private line, fire sprinklers, pools, spas and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the SFDB.
  5. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by SFDB.
  6. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Three-Star level requirement or equivalent.
- D. **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. **Public Improvements.** The Owner shall submit public improvement plans for construction of a new residential fire hydrant located within 500 feet of all exterior walls of the residence. Any work in the public right-of-way requires a Public Works Permit.
    - b. **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.

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. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (treatment, rate and volume). The Owner shall submit a hydrology report prepared by a registered civil engineer or licensed architect 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
- c. **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 C "Design Review," and all elements/specifications shall be implemented on-site.
- d. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. 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:

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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.

E. **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 point 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. 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-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.
3. **Construction Days.** Construction activities involving excavating, grading, importing and exporting of soil materials shall only be permitted Monday through Friday, and shall be prohibited on Saturdays, Sundays, and the following holidays:

New Year's Day	January 1st*
Martin Luther King, Jr. Day	3rd Monday in January
Presidents' Day	3rd Monday in February
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 City 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 said 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.

4. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
  - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
  - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.

- c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
  - d. Gravel pads or other means to prevent tracking of mud from the project site shall be installed at all access points.
  - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
  - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
  - g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
  - h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at [www.arb.ca.gov/msprog/ordiesel/ordiesel.htm](http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm).
  - i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
5. **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.

F. **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 (Section II.D.1) shall be completed.
3. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

G. **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 Planning Commission.
  - 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.

3. **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 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.

### III. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Planning Commission 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.

**IV. 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.

This motion was passed and adopted on the 6th day of November, 2014 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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

**PLEASE BE ADVISED:**

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