

**CITY OF SANTA BARBARA  
CITY COUNCIL**

**Helene Schneider**  
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**Gregg Hart**  
*Mayor Pro Tempore*  
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*Ordinance Committee Chair*  
**Dale Francisco**  
*Finance Committee Chair*  
**Frank Hotchkiss**  
**Cathy Murillo**  
**Bendy White**



**Paul Casey**  
*City Administrator*

**Ariel Pierre Calonne**  
*City Attorney*

**City Hall**  
*735 Anacapa Street*  
<http://www.SantaBarbaraCA.gov>

**AUGUST 4, 2015  
AGENDA**

**ORDER OF BUSINESS:** Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council meeting begins at 2:00 p.m. in the Council Chamber at City Hall.

**REPORTS:** Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and <http://www.SantaBarbaraCA.gov>. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (<http://www.SantaBarbaraCA.gov>). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

**PUBLIC COMMENT:** At the beginning of the 2:00 p.m. session of each regular City Council meeting, and at the beginning of each special City Council meeting, any member of the public may address the City Council concerning any item not on the Council's agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the City Council. Should City Council business continue into the evening session of a regular City Council meeting at 6:00 p.m., the City Council will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

**REQUEST TO SPEAK:** A member of the public may address the Finance or Ordinance Committee or City Council regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or City Council.

**CONSENT CALENDAR:** The Consent Calendar is comprised of items that will not usually require discussion by the City Council. A Consent Calendar item is open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council considers the Consent Calendar.

**AMERICANS WITH DISABILITIES ACT:** If you need auxiliary aids or services or staff assistance to attend or participate in this meeting, please contact the City Administrator's Office at 564-5305. If possible, notification at least 48 hours prior to the meeting will usually enable the City to make reasonable arrangements. Specialized services, such as sign language interpretation or documents in Braille, may require additional lead time to arrange.

**TELEVISION COVERAGE:** Each regular City Council meeting is broadcast live in English and Spanish on City TV Channel 18 and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at [www.citytv18.com](http://www.citytv18.com) for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

## **REGULAR CITY COUNCIL MEETING – 2:00 P.M.**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

### **CEREMONIAL ITEMS**

**1. Subject: Employee Recognition - Service Award Pins (410.01)**

Recommendation: That Council authorize the City Administrator to express the City's appreciation to employees who are eligible to receive service award pins for their years of service through August 31, 2015.

### **CHANGES TO THE AGENDA**

### **PUBLIC COMMENT**

### **CONSENT CALENDAR**

**2. Subject: Cancellation Of The September 1, 2015, And Reinstatement Of The September 8, 2015, City Council Meetings (120.09)**

Recommendation: That Council cancel the September 1, 2015, City Council meeting and reinstate the previously cancelled September 8, 2015, City Council meeting.

**3. Subject: Adoption Of Ordinance To Designate Fishing Areas On Stearns Wharf (570.03)**

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by Adding Section 17.13.060 to Designate Fishing Areas on Stearns Wharf.

## CONSENT CALENDAR (CONT'D)

### 4. **Subject: Adoption Of Solar Energy System Permits Ordinance (630.06)**

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Adding Chapter 22.91 to the Municipal Code and Amending Sections 28.04.050 and 28.93.030 Relating to Permitting Procedures and Construction Requirements for Solar Energy Systems.

### 5. **Subject: Approval Of License And Introduction Of Ordinance For Lease Agreement With D&G Lin, LLC For An Automobile Dealership At The Airport (330.04)**

Recommendation: That Council:

- A. Authorize the Airport Director to execute a three-year License Agreement with D&G Lin, LLC, a California Limited Liability Company, for construction of an automobile dealership on 167,713 square feet of land at 6210 Hollister Avenue, at the Santa Barbara Airport, at a monthly rental of \$1,000, effective upon the date of execution by both parties; and
- B. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving and Authorizing the Airport Director to Execute a Twenty-Year Lease Agreement, With Two Five-Year Options, for 167,713 Square Feet of Land at 6210 Hollister Avenue, at the Santa Barbara Airport, With D&G Lin, LLC, a California Limited Liability Company, at a Monthly Rental of \$20,000, Exclusive of Utilities, Effective Upon Issuance of a Certificate of Occupancy by the City.

### 6. **Subject: Professional Services Agreement With Mitchell & Associates For Audit Services Of Percentage Rent Tenants At The Waterfront (570.03)**

Recommendation: That Council authorize the City Administrator to execute a Professional Services Agreement with Mitchell & Associates for revenue examinations/audits of percentage rent tenants at the Waterfront in a total amount not to exceed \$35,000 for Fiscal Year 2016.

### 7. **Subject: State Of California Office Of Traffic Safety Selective Traffic Enforcement Grant (520.04)**

Recommendation: That Council:

- A. Accept a grant from the State of California, Office of Traffic Safety, in the amount of \$280,000, and authorize the Chief of Police to execute the grant agreement; and
- B. Increase appropriations and estimated revenues by \$280,000 in the Miscellaneous Grants Fund for Fiscal Year 2016 for the Selective Traffic Enforcement Program.

## CONSENT CALENDAR (CONT'D)

**8. Subject: Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Pavement Preparation/Overlay Project (530.04)**

Recommendation: That Council:

- A. Award a contract with Granite Construction Company in their low bid amount of \$2,415,969 for construction of the Zone 2 Pavement Preparation/Overlay Project, and authorize the Public Works Director to execute the contract and approve expenditures up to \$193,278 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment;
- B. Authorize the Public Works Director to execute a contract with Flowers & Associates, Inc., in the amount of \$179,905 for construction support services, and approve expenditures of up to \$17,991 for extra services that may result from necessary changes in the scope of work;
- C. Authorize an increase in appropriations by \$313,232 from reserves in the Measure A Fund for the Zone 2 Pavement Preparation/Overlay Project; and
- D. Authorize an increase in appropriations and estimated revenues by \$54,400 in the Streets Capital Fund for the Zone 2 Pavement Preparation/Overlay Project funded from revenues received from Vista Oceano La Mesa Venture LLC.

**9. Subject: Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Slurry Seal Project (530.04)**

Recommendation: That Council:

- A. Award a contract with American Asphalt South, Inc., in their low bid amount of \$489,389 for construction of the Zone 2 Slurry Seal Project, and authorize the Public Works Director to execute the contract and approve expenditures up to \$48,939 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and
- B. Authorize the Public Works Director to execute a contract with Flowers & Associates, Inc., in the amount of \$106,675 for construction support services, and approve expenditures of up to \$10,668 for extra services that may result from necessary changes in the scope of work.

## CONSENT CALENDAR (CONT'D)

**10. Subject: Contract For Design Of Light Industrial Buildings On Airport Parcels 17 And 22 (560.04)**

Recommendation: That Council authorize the Public Works Director to execute a City Professional Services contract with Kupiec Architects PC, in the amount of \$280,000, for design services of the Airport Parcels 17 and 22 Development Project, and authorize the Public Works Director to approve expenditures of up to \$28,000 for extra services of Kupiec Architects PC that may result from necessary changes in the scope of work.

**11. Subject: Introduction Of Ordinance For Grant Funding Agreement For Recycled Water Plant Replacement Project (540.13)**

Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Authorizing the Approval and Execution by the Public Works Director of a Proposition 84 Integrated Regional Water Management Subgrant Agreement with the Santa Barbara County Water Agency, Pertaining to the Grant Funding Award of \$1,045,222 for the City of Santa Barbara Recycled Water Enhancement (or Replacement) Project.

**12. Subject: Sole Source Authorization To Purchase Acoustic Testing Equipment For The Wastewater Collection System (540.13)**

Recommendation: That Council:

- A. Approve and authorize the General Services Manager to issue a Sole Source Purchase Order to 3T Equipment Company for \$51,510.64, for the purchase of sanitary sewer acoustic testing equipment; and
- B. Find it to be in the City's best interest to approve equipment standardization for sanitary sewer acoustic testing equipment for the next five-year period, in accordance with Sections 4.52.070 (k) and (l) of the Municipal Code.

**13. Subject: Response To 2014-2015 Santa Barbara County Grand Jury Report On Zoning Information Reports (150.04)**

Recommendation: That Council:

- A. Receive the Santa Barbara County Grand Jury Report on Zoning Information Reports; and
- B. Authorize the Mayor to send a letter forwarding the City's response to the Grand Jury Report.

## **CONSENT CALENDAR (CONT'D)**

### NOTICES

14. The City Clerk has on Thursday, July 30, 2015, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

**This concludes the Consent Calendar.**

## **CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS**

### PUBLIC WORKS DEPARTMENT

15. **Subject: Capital Improvement Projects: Annual Report For Fiscal Year 2015 (230.01)**

Recommendation: That Council receive the City's Capital Improvement Projects Fourth Quarter and Annual Report for Fiscal Year 2015.

### **PUBLIC HEARINGS**

16. **Subject: Appeal Of Planning Commission Approval Of An Amended Coastal Development Permit For A New Pool At 3425 Sea Ledge Lane (640.07)**

Recommendation: That Council deny the appeal of Chris Krach-Bastian, and uphold the decision of the Planning Commission to approve an Amendment to a Coastal Development Permit for a new pool, spa, pool equipment and safety fencing at 3425 Sea Ledge Lane, making the findings and adopting the conditions specified in Planning Commission Resolution No. 011-15.

## **COUNCIL AND STAFF COMMUNICATIONS**

## **COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS**

## **ADJOURNMENT**



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** City Administrator's Office

**SUBJECT:** Employee Recognition – Service Award Pins

### **RECOMMENDATION:**

That Council authorize the City Administrator to express the City's appreciation to employees who are eligible to receive service award pins for their years of service through August 31, 2015.

### **DISCUSSION:**

Since 1980, the City Employees' Recognition Program has recognized length of City Service. Service award pins are presented to employees for every five years of service. Those employees achieving 25 years of service or more are eligible to receive their pins in front of the City Council.

Attached is a list of those employees who will be awarded pins for their service through August 31, 2015.

**ATTACHMENT:** August 2015 Service Awards

**PREPARED BY:** Myndi Hegeman, Administrative Specialist

**SUBMITTED BY:** Kristine Schmidt, Administrative Services Director

**APPROVED BY:** City Administrator's Office

**AUGUST 2015 SERVICE AWARDS**

August 4, 2015 Council Meeting

**5 YEARS**

Simon Perez, Wastewater Collection System Operator II, Public Works Department

Jerrold Holcomb, Custodian, Airport Department

**10 YEARS**

Catherine Chan, Police Technician, Police Department

German Padilla, Parking Enforcement Officer, Police Department

Steven Foley, Supervising Transportation Planner, Public Works Department

Garrett Reynolds, Welder / Fabricator, Public Works Department

Timothy Burgess, Water Resources Specialist, Parks and Recreation Department

Jill Murray, Water Quality Research Coordinator, Parks and Recreation Department

**15 YEARS**

Gregory Corral, Purchasing Supervisor, Finance Department

Garrett Osgood, Painter, Public Works Department

**25 YEARS**

Richard Brade, Grounds Maintenance Crew Leader, Parks and Recreation Department

**30 YEARS**

Janet C. Neuhauser, Public Safety Dispatch Supervisor, Police Department

Michael Jones, Custodian, Public Works

James Jenkins, Water Distribution Supervisor, Public Works Department



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** City Administrator's Office

**SUBJECT:** Cancellation Of The September 1, 2015, And Reinstatement Of The September 8, 2015, City Council Meetings

### RECOMMENDATION:

That Council cancel the September 1, 2015, City Council meeting and reinstate the previously cancelled September 8, 2015, City Council meeting.

### DISCUSSION:

Upon reviewing future business items, we have determined that the Council Meeting currently scheduled for Tuesday, September 1, 2015, is unnecessary. As a result, staff recommends that the meeting be cancelled.

Concurrently, staff recommends that the meeting of September 8, 2015, which was approved for cancellation by Council on November 18, 2014, be reinstated.

**PREPARED BY:** Jennifer M. Jennings, Administrator's Office Supervisor

**SUBMITTED BY:** Paul Casey, City Administrator

**APPROVED BY:** City Administrator's Office

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING THE SANTA BARBARA MUNICIPAL CODE BY ADDING SECTION 17.13.060 TO DESIGNATE FISHING AREAS ON STEARNS WHARF

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 17.13 of Title 17 of the Santa Barbara Municipal Code is amended by adding Section 17.13.060 which reads as follows:

**17.13.060. Stearns Wharf Designated Fishing Areas.**

It shall be unlawful to fish from Stearns Wharf except in the areas depicted as “Designated Fishing Areas” on the map attached as Exhibit “A” to Chapter 17.13. The Waterfront Director, or his or her designee, may make temporary changes to the boundaries of the “Designated Fishing Areas” as shown on Exhibit “A” to accommodate special events. Exhibit “A” attached to Chapter 17.13 shall not be revised to reflect such temporary changes but notice of such temporary changes will be posted at visible locations on Stearns Wharf.

AUG 4 2015 #3  
570.03

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA ADDING CHAPTER 22.91 TO THE MUNICIPAL CODE AND AMENDING SECTIONS 28.04.050 AND 28.93.030 RELATING TO PERMITTING PROCEDURES AND CONSTRUCTION REQUIREMENTS FOR SOLAR ENERGY SYSTEMS.

**WHEREAS**, Subdivision (a) of Section 65850.5 of the California Government Code provides that it is the policy of the State to promote and encourage the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems, including design review for aesthetic purposes; and

**WHEREAS**, Subdivision (b) of Section 65850.5 of the California Government Code provides that the requirements of local law shall be limited to those standards and regulations necessary to ensure that a solar energy system will not have a specific, adverse impact on the public health or safety; and

**WHEREAS**, Subdivision (g)(1) of Section 65850.5 of the California Government Code provides that, on or before September 30, 2015, every city, county, or city and county shall adopt an ordinance, consistent with the goals and intent of subdivision (a) of Section 65850.5, that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

**WHEREAS**, The City's General Plan calls for a reduction in green-house gas emissions and promotes the use of local renewable energy sources, and solar photovoltaic electrical energy systems are a common means of reducing greenhouse gas emissions by reducing the demand for fossil fuel generated electricity; and

**WHEREAS**, The cost of pre-installing future solar photovoltaic electrical conduit in new a home during construction is a small fraction of the cost to retrofit the same conduit into an existing home; and

**WHEREAS**, The California Health and Safety Code, Section 17958.7(a) allows the California Building Standards to be amended by local authorities based on local climatic, geologic, or topographical conditions, and, because of the local topography and geology, the City of Santa Barbara's access to electrical utility infrastructure is limited to a single, remote system of electrical transmission infrastructure, and because the City of Santa Barbara experiences periods of high heat that maximize the demand for electrical current over this transmission system.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS**

SECTION 1. Chapter 22.91 is added to Title 22 of the Santa Barbara Municipal Code to read as follows:

## Chapter 22.91

### Solar Energy System Review Process.

#### **22.91.010 Definitions.**

The following words and phrases as used in this Chapter 22.91 are defined as follows:

A. "Electronic submittal" means the utilization of one or more of the following:

1. e-mail, or
2. the internet, or
3. facsimile.

B. "Feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

C. "Small residential rooftop solar energy system" is a solar energy system that satisfies all of the following elements:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and paragraph (iii) of subdivision (c) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time;
3. A solar energy system that is installed on a single residential unit or two-residential unit (as defined in Chapter 28.04 of this Code); and
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

D. "Solar energy system" has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

E. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health and safety standards, policies, or conditions as they existed on the date the application was deemed complete.

## **22.91.020 Administrative Approval Process.**

The City shall administratively approve applications to install solar energy systems pursuant to the provisions of this Chapter 22.91. If an application for a solar energy system satisfies all of the requirements of the Small Residential Rooftop Solar Energy System checklist, the application shall receive expedited review pursuant to Section 22.91.030. Otherwise, all applications to install solar energy systems shall be processed pursuant to this Section 22.91.020.

A. Application. Prior to submitting a solar energy system permit application and checklist to the City, the applicant shall:

1. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

2. Verify that the existing electrical system's current or proposed configuration will accommodate all new photovoltaic electrical loads in accordance with the edition of the California Electrical Code in effect at the time the solar energy system permit application is submitted; and

3. Verify that the proposal is exempt from, or otherwise complies with, the coastal development permit requirements pursuant to Public Resources Code 30610, Sections 13250 to 13253 of Title 14 of the California Administrative Code, and Chapter 28.44 of the Santa Barbara Municipal Code.

B. Extent of Review. The review of all applications to install a solar energy system shall be limited to the Building Official's review of whether the proposed solar energy system meets all health and safety requirements of local, state, and federal law and the City Planner's review of applicable building height, open yard requirements, and zoning setbacks pursuant to Title 28 of the Santa Barbara Municipal Code. If the Building Official makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the City shall require the applicant to obtain a Performance Standard Permit.

C. Standards for Solar Energy Systems. All solar energy systems proposed for installation within the City of Santa Barbara shall meet the following standards, as applicable:

1. All solar energy systems shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, including building height, zoning setback, minimum open yard, and permitted construction standards.

2. Solar energy systems for heating water in single family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing and Mechanical Codes.

3. A solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

4. Solar energy systems may be installed on a property with outstanding violations of the City's Municipal Code so long as both of the following requirements are satisfied:

a. The proposed solar energy system installation will not rely upon prior construction that was identified as a violation in an unresolved City notice or document, and

b. In the course of conducting the building inspection for a solar energy system, a health or life-safety hazard is not observed. Examples of such hazards include, but are not limited to conditions that could lead to structural failure, electrical shock, and sanitary sewer failures.

D. Performance Standard Permit. In the case where the Building Official makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the solar energy system shall not be installed until a Performance Standard Permit has been issued for the solar energy system pursuant to Chapter 28.93 of this Code. The Performance Standard Permit shall require the installation or incorporation of methods or conditions necessary to minimize or avoid the specific, adverse impact.

E. Appeal. The Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety is appealable in accordance with the following procedures:

1. Who May Appeal. The decision of the Building Official may be appealed to the Planning Commission by the applicant. No other persons can appeal.

2. Timing for Appeal. The applicant must file a written appeal with the Community Development Director no more than 10 calendar days following the Building Official's decision. The appeal shall include the grounds for appeal.

3. Grounds for Appeal. The decision of the Building Official may be appealed on the grounds that the Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety is not supported by substantial evidence.

4. Scheduling an Appeal Hearing. The Community Development Department shall assign a date for an appeal hearing before the Planning Commission no earlier than 10 calendar days after the date on which the appeal is filed with the Community Development Director. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.

5. Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety in accordance with the following:

a. A decision to affirm the decision of the Building Official shall require a finding based on substantial evidence in the record that the proposed solar energy system could have a specific, adverse impact upon the public health and safety.

b. If the Planning Commission determines that there is not substantial evidence that the solar energy system could have a specific adverse impact upon the public health and safety, then the decision of the Building Official shall be reversed and the project shall be approved.

c. If the Planning Commission determines that conditions of approval would mitigate the specific adverse impact upon the public health and safety, then the decision of the Building Official shall be reversed and the project shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit condition shall not cause the project to exceed 10 percent of the cost of the small rooftop solar energy system or decrease the efficiency of the small rooftop solar energy system by an amount exceeding 10 percent.

6. The decision of the City Planning Commission is final.

### **22.91.030 Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Energy Systems.**

In compliance with Government Code Section 65850.5, the City has developed an expedited and streamlined permitting process for qualifying Small Residential Rooftop Solar Energy Systems. The submittal requirements and review procedures for applications of Small Residential Rooftop Solar Energy Systems are as follows:

A. Application Checklist. In order to be eligible for expedited review, prior to submitting a solar energy system permit application and checklist to the City, the applicant shall:

1. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

2. Verify that the existing electrical system's current or proposed configuration will accommodate all new photovoltaic electrical loads in accordance with the edition of the California Electrical Code in effect at the time the solar energy system permit application is submitted; and

3. Verify that the proposal is exempt from, or otherwise complies with, the coastal development permit requirements pursuant to Public Resources Code 30610, Sections 13250 to 13253 of Title 14 of the California Administrative Code, and Chapter 28.44 of the Santa Barbara Municipal Code.

B. Application Submission. City accepts the submission of applications for Small Residential Rooftop Solar Energy Systems and the associated checklist and documentation in person at the Building Permit counter or by electronic submittal. The City shall accept signatures electronically for electronic submittals.

C. Standards for Solar Energy Systems. All solar energy systems proposed for installation within the City of Santa Barbara shall meet the following standards, as applicable:

1. All solar energy systems shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, including building height, zoning setback, minimum open yard, and permitted construction standards.

2. Solar energy systems for heating water in single family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing and Mechanical Codes.

3. A solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

4. Solar energy systems may be installed on a property with outstanding violations of the City's Municipal Code so long as both of the following requirements are satisfied:

a. The proposed solar energy system installation will not rely upon prior construction that was identified as a violation in an unresolved City notice or document, and

b. In the course of conducting the building inspection for a solar energy system, a health or life-safety hazard is not observed. Examples of such hazards include, but are not limited to conditions that could lead to structural failure, electrical shock, and sanitary sewer failures.

D. Application Review. The Building and Safety Division shall confirm whether the application and supporting documents are complete and meet the requirements of the City's Small Residential Rooftop Solar Energy System checklist. The Building and Safety Division shall review applications for Small Residential Rooftop Solar Energy Systems within 24 working hours (3 working days) of submission. Mounting the solar panels on the plane of the roof with the California Solar Permitting Guide "Flush Mount" standards, will eliminate the need for confirmation of maximum building height.

E. Complete Application. An application that satisfies the information requirements specified in the City's Small Residential Rooftop Solar Energy System checklist shall be deemed complete.

F. Incomplete Application. If the Building and Safety Division determines that an application for a Small Residential Rooftop Solar Energy System is incomplete, the Building and Safety Division shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance. Alternatively, if the Building and Safety Division determines that the proposed solar energy system, as proposed, will not qualify as a Small Residential Rooftop Solar Energy System, the Building and Safety Division may recommend that the applicant re-submit his or her application pursuant to Section 22.91.020.

G. Permit Approval. Upon confirmation by the Building and Safety Division that the application and supporting documents are complete and meet the requirements of the Small Residential Rooftop Solar Energy System checklist, the Building Official shall approve the application and issue all required permits or authorizations electronically.

H. Inspections. The installation of a Small Residential Rooftop Solar Energy System shall only require one building inspection which, if a fire inspection is required, shall be consolidated with the fire inspection. If the installation of the Small Residential Rooftop Solar Energy System fails the inspection, a subsequent inspection or inspections shall be required, at the applicant's expense, until the installation passes inspection or is cancelled and the solar energy system is removed to the satisfaction of the Building Official.

SECTION 2. Section 22.04.050 of Chapter 22.04 of Title 22 of the Santa Barbara Municipal Code is amended to read as follows:

**22.04.050. Amendments to the California Electrical Code.**

The 2013 California Electrical Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.050:

A. Article 89.108.8 California Electrical Code is deleted and readopted to read as follows:

**89.108.8 Appeals Board.** Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020.

B. A new Article 690.4 (I) is added to the California Electrical Code to read as follows:

690.4 (I) Single Family Residences. New single family residences shall comply with the requirements of this Article.

(1) Conduit for Future Solar Photovoltaic System. Newly constructed single-family dwelling units shall include minimum 1-inch diameter, metallic electrical conduit installed per this Section to accommodate future installation of roof-mounted solar photovoltaic systems. The electrical junction box and the segment of conduit run in the attic, or where there is no attic, to the roof deck, shall be permanently and visibly marked as "For Future Solar Photovoltaic".

(2) Conduit and Junction Box Locations. One conduit run shall originate at a readily accessible attic or roof deck location with proximity to California Energy Code's "Solar Zone Area" and terminate at a minimum 4-inch-square approved electrical junction box located within 72 inches horizontally and 12 inches vertically of a main electrical panel. A second conduit run shall originate at the electrical junction box and terminate at the main electrical panel.

SECTION 3. Section 28.93.030 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

**28.93.030 Uses Permitted Upon Issuance of a Performance Standard Permit.**

The following use(s) may be permitted subject to the approval of a Performance Standard Permit:

A. State-licensed Large Family Day Care Homes in the A, E, R-1, R-2, R-3, R-4 and PUD zones and in the HRC-2 zone where residential uses are permitted provided that the following performance standards are met:

1. There are no other State-licensed Large Family Day Care Homes within a 300 foot radius of the proposed Large Family Day Care Home measured from the nearest property lines of the affected Large Family Day Care Homes. A waiver from the 300-foot spacing requirement may be granted if it can be found that certain physical conditions exist and if the waiver would not result in significant effects on the public peace, health, safety and comfort of the affected neighborhood. Examples of physical conditions that may warrant granting of a waiver include intervening topography that creates a barrier or separation between the facilities such as hillsides or ravines, the presence of major nonresidential uses or structures between facilities or the presence of a major roadway between the facilities.

2. The City finds that adequate off-street area or on-street area in front of the residence is available for passenger loading and unloading. The passenger loading and unloading area shall be of adequate size and configuration and shall allow unrestricted access to neighboring properties.

3. Outdoor play shall be limited to the hours between 8:00 a.m. and 6:00 p.m.

4. One additional parking space for employee parking shall be provided unless a finding is made that adequate on-street or off-street parking is available to support the proposed use.

B. Community care facilities, residential care facilities for the elderly, and hospices serving 7 to 12 individuals in the A, E, R-1, R-2, R-3, R-4, and PUD zones and in the HRC-2 zone where residential uses are permitted, provided that the following performance standards are met:

1. Adequate off-street parking is provided pursuant to Section 28.90.100 or as modified pursuant to Section 28.92.110.

2. The facility conforms to the extent feasible to the type, character and appearance of other residential units in the neighborhood in which it is located. This provision shall in no way restrict the installation of any special feature(s) necessary to serve disabled residents (e.g., ramps, lifts, handrails).

3. The intensity of use in terms of number of people, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use.

C. Public works treatment and distribution facilities that are greater than 500 square feet and no more than 1,000 square feet in the R-3, R-4, and P-R zones subject to the requirements of Section 28.37.010.B., and less restrictive zones, provided that the following performance standards are met:

1. The setbacks of the proposed facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding residential properties is avoided.

2. The operation of the proposed facility is such that the character of the area is not significantly altered or disturbed.

3. The design and operation of non-emergency outdoor security lighting and equipment will not be a nuisance to the use of property in the area.

4. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays, and holidays observed by the City of Santa Barbara.

5. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

6. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

D. Rehabilitation of existing water storage reservoirs or sludge basins in any zone, that are owned and operated by the City, provided that the following performance standards are met:

1. That the design and operation of non-emergency outdoor lighting and equipment will not be a nuisance to the use of property in the area.

2. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara.

3. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

4. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

E. Additional dwelling units. Notwithstanding any other provisions of this title, where a lot in an A-1, A-2, E-1, E-2, E-3, or R-1 Zone has an area of more than the required lot area for that zone and adequate provisions for ingress and egress, a Performance Standard Permit may be granted by the Staff Hearing Officer for the construction of additional one-family dwellings and allowable accessory buildings in these zones. However, the minimum site area per dwelling unit in these zones shall be the minimum lot area required for that zone, and the location of such additional dwellings shall comply with the provisions of all other applicable ordinances.

F. Solar Energy Systems. In the case where the Building Official makes a finding, based on substantial evidence, that a solar energy system could have a specific, adverse impact upon the public health and safety (as defined in Chapter 22.91 of this Code), the solar energy system shall not be issued a building permit until a Performance Standard Permit has been issued for the solar energy system.

1. Conditions of Approval. The Performance Standard Permit shall require the installation or incorporation of measures or conditions necessary to minimize or avoid the specific, adverse impact.

2. Grounds for Denial. The City shall not deny an application for a Performance Standard Permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily minimize or avoid the specific, adverse impact. If the

applicant proposes any potentially feasible alternatives for preventing the specific adverse impact, the findings accompanying the denial of the Performance Standard Permit shall include the basis for the rejection for potential feasible alternatives of preventing the specific, adverse impact.

3. Appeal. The decision of the Staff Hearing Officer to deny an application for a Performance Standard Permit is appealable according to the following procedures:

a. Who May Appeal. The decision of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant. No other persons can appeal.

b. Timing for Appeal. The applicant may appeal a decision of the Staff Hearing Officer by filing an appeal with the Community Development Director no more than 10 calendar days following the decision. The application shall include the grounds for appeal.

c. Grounds for Appeal. The decision of the Staff Hearing Officer may be appealed on the grounds that the stated findings to deny the permit are not supported by substantial evidence.

d. Scheduling an Appeal Hearing. The Community Development Department shall assign a date for an appeal hearing before the Planning Commission no earlier than 10 calendar days after the date on which the appeal is filed with the Community Development Director. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.

e. Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the Staff Hearing Officer's decision to deny a solar energy system in accordance with the following:

i. A decision to affirm the decision of the Staff Hearing Officer shall require a finding based on substantial evidence in the record that the proposed solar energy system would have a specific, adverse impact upon the public health and safety.

ii. If the Planning Commission determines that there is not substantial evidence that the solar energy system would have a specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be approved.

iii. If the Planning Commission determines that conditions of approval would mitigate the specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit condition shall not cause the project to exceed 10 percent of the cost of the small rooftop solar energy system or decrease the efficiency of the small rooftop solar energy system by an amount exceeding 10 percent.

f. The decision of the City Planning Commission is final.

SECTION 4. Severability. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 5. Effective Date. This ordinance shall take effect thirty (30) days after passage thereof.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** July 28, 2015

**TO:** Mayor and Councilmembers

**FROM:** Business & Property Division, Airport Department

**SUBJECT:** Approval Of License And Introduction Of Ordinance For Lease Agreement With D&G Lin, LLC For An Automobile Dealership At The Airport

**RECOMMENDATION:** That Council:

- A. Authorize the Airport Director to execute a three-year License Agreement with D&G Lin, LLC, a California Limited Liability Company, for construction of an automobile dealership on 167,713 square feet of land at 6210 Hollister Avenue, at the Santa Barbara Airport, at a monthly rental of \$1,000, effective upon the date of execution by both parties; and
- B. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving and Authorizing the Airport Director to Execute a Twenty-Year Lease Agreement, With Two Five-Year Options, for 167,713 Square Feet of Land at 6210 Hollister Avenue, at the Santa Barbara Airport, With D&G Lin, LLC, a California Limited Liability Company, at a Monthly Rental of \$20,000, Exclusive of Utilities, Effective Upon Issuance of a Certificate of Occupancy by the City.

### EXECUTIVE SUMMARY:

The Airport has received an unsolicited proposal for construction of a new automobile dealership on behalf of D&G Lin, LLC, part of the New Century Automotive Group. Mr. Lin proposes to construct a Chrysler, Dodge, Jeep and Ram dealership on 167,713 square feet of land, at 6210 Hollister Avenue, for a monthly rental of \$20,000 which adjusts to market rates at each five year increment. The property has been recently appraised and the rent is at market, per FAA regulations. The zoning is appropriate for the use, and the environmental review has been completed. References provided by Mr. Lin and the New Century Automotive Group have been excellent. The License is to allow construction of the dealership facilities. On July 15, 2015, Airport Commission approved a five-year lease with D&G Lin, effective concurrently with the dealership lease, for 2.9 acres of land at 200 Frederick Lopez Road, for additional automobile storage, at \$7,000 per month, bringing the total revenue from the dealership, once operating, to \$27,000 per month.

## **DISCUSSION:**

### Proposal

The Airport received an unsolicited proposal from Steve Leider, Lee & Associates – Central Coast, a real estate broker, on behalf of Dennis Lin, New Century Automotive Group, who was looking for a site for an automobile dealership in the Santa Barbara area. Because the Airport has had an auto dealership in the Commercial/Industrial area, located at the corner of La Patera and Hollister Avenue, this location was requested along with the adjacent vacant parcels fronting Hollister to David Love Place.

Mr. Lin, of D&G Lin, LLC has been in the automotive sales and repair business for 23 years, and is a partner or sole proprietor of 14 dealerships throughout southern California, including Alfa Romeo and Fiat, BMW, Infiniti, and Chrysler, Dodge, Jeep, Ram, and Volkswagon. New Century also has a recreational vehicle group that includes, Airstream, BMW Motorrad, Slingshot, Indian and Victory motorcycles. In addition, New Century operates Universal Financial Company, an auto finance company in San Gabriel. Mr. Lin has served on the boards of the San Gabriel Valley Medical Center, the Chinese Education Association, and the Chinese Club of San Marino and currently serves on the board of Pacific Alliance Bank. He also served on the San Marino General Plan Steering Committee and is a member of the San Marino Chamber of Commerce.

Mr. Lin proposes to bring back the Chrysler, Dodge, Ram and Jeep brands, and may add additional brands at a later date.

### Airport Industrial Area Specific Plan (SP-6) Policy Consistency

City Council approved the Airport Specific Plan in 1997. It is the guiding document for development of the Airport's commercial/industrial properties north of Hollister Avenue.

The proposed lease site is located in Sub-Area #2 of the Airport Industrial Area Specific Plan (SP-6) in an area designated as "Light Industrial and/or Commercial" and "Jeep Dealership." The proposed lease is consistent with policies of the Specific Plan pertaining to the Airport Department's economic self-sufficiency and the pattern of development along Hollister Avenue. The lease site is in the Airport Industrial Zone (A-I-2) in which new car sales is an expressly permissible use.

**Figure 1: Proposed Lease Parcels**



#### Runway Protection Zone Restriction

A portion of the property located at 6210 Hollister Avenue, which was occupied by the former auto dealership, is in the Runway Protection Zone (RPZ) for Runway 15L/33R. The RPZ is a critical safety area where aircraft are on short final approach and no new above-ground development is permissible. Federal guidance now prohibits all development in the RPZ. The former auto dealership was demolished in 2012 pursuant to the Specific Plan and Federal RPZ guidance. The new proposed leased area (as shown above) and the building envelope for the proposed new auto dealership development and all vehicle parking will be located outside of the RPZ to avoid conflict with aviation safety regulations.

#### Land Value

The FAA requires that all Airport rentals of land or facilities be at market rates. The Airport had the area appraised and, based on that appraisal, negotiated two agreements: a license agreement to secure the land while Mr. Lin completes the design, permitting entitlement, and construction phase of the development; and a lease agreement to be effective upon issuance of a certificate of occupancy.

### Proposed License Terms

The premises includes three parcels totaling approximately 167,713 square feet of vacant land. Title to the premises shall remain vested in the City.

The term of the License is three years, and may be extended an additional year at the sole discretion of the City. Rental during the license period shall be \$1,000 per month.

Improvements to be constructed include buildings, landscape, hardscape, driveways, sidewalks, utilities and other permanent structures at the sole costs and expense of D&G Lin, LLC. At the successful completion of construction, as evidenced by the issuance of a Certificate of Occupancy by the City, the Lease commences.

### Proposed Lease Terms

The initial term of the proposed lease is twenty (20) years. There are two five-year options conditioned upon the tenant being in good standing under the terms of the lease.

Base rental for the dealership lease is \$20,000 per month, exclusive of utilities. The dealership Lease agreement includes a market rate rental adjustment every five years on the anniversary date of the lease. In no case shall the new rent be less than that of the previous month.

### Vehicle Storage Lease Terms

A separate five-year Lease Agreement for additional storage of inventory was approved by Airport Commission on July 15, 2015. The lease commences upon issuance of the Certificate of Occupancy for the dealership and has a five year term. Total area leased is 2.9 acres or 126,324 square feet of land. The base rental is \$7,000 per month with annual CPI adjustments of no less than 3%, nor greater than 8%, per year.

### Total Rent

The total rent for the dealership and inventory storage lot for the first five years of operation will be \$27,000 a month or \$324,000 per year in revenue to the Airport, exclusive of utilities.

### Broker Compensation

In recognition of the services provided by Lee & Associates Commercial Real Estate Services, Inc., City and D&G Lin, LLC will each pay 50% of the brokerage commission. The commission will be based on the \$20,000 base rent for the dealership as follows:

4% of the base rent for years 1-5

2% of the base rent for years 6-10

1% of the base rent for years 11-20

Environmental Review

The decision of the City Council to enter into a lease agreement is a discretionary project as defined by the California Environmental Quality Act (CEQA). Development similar to the proposed project was considered in the Airport Industrial Area Specific Plan (SP-6) Environmental Impact Report (EIR). Additionally build-out of the Airport Industrial Specific Plan was considered in the General Plan EIR. Therefore the proposed lease is exempt from further environmental review under CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan or Zoning." If new project-specific impacts are identified in the development review process, additional environmental review may be necessary.

Airport Commission

The Airport Commission recommended approval of the license and lease at their regularly scheduled meeting on July 15, 2015.

**PREPARED BY:** Rebecca Fribley, Sr. Property Management Specialist

**SUBMITTED BY:** Hazel Johns, Airport Director

**APPROVED BY:** City Administrator's Office

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA APPROVING AND AUTHORIZING THE AIRPORT DIRECTOR TO EXECUTE A TWENTY-YEAR LEASE AGREEMENT, WITH TWO FIVE-YEAR OPTIONS, FOR 167,713 SQUARE FEET OF LAND AT 6210 HOLLISTER AVENUE, AT THE SANTA BARBARA AIRPORT, WITH D&G LIN, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AT A MONTHLY RENTAL OF \$20,000, EXCLUSIVE OF UTILITIES, EFFECTIVE UPON ISSUANCE OF A CERTIFICATE OF OCCUPANCY BY THE CITY.

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. In accordance with the provisions of Section 521 of the Charter of the City of Santa Barbara, that certain twenty-year Lease Agreement, with two five-year options, between the City of Santa Barbara and D&G Lin, LLC, for operation of an automobile dealership at 6210 Hollister Avenue; including 167,713 square feet of land, at the Santa Barbara Airport, for a monthly rental of \$20,000, exclusive of utilities, is hereby approved.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Business Services Division, Waterfront Department

**SUBJECT:** Professional Services Agreement With Mitchell & Associates For Audit Services Of Percentage Rent Tenants At The Waterfront

### RECOMMENDATION:

That Council authorize the City Administrator to execute a Professional Services Agreement with Mitchell & Associates for revenue examinations/audits of percentage rent tenants at the Waterfront in a total amount not-to-exceed \$35,000 for Fiscal Year 2016.

### DISCUSSION:

Since 1992, the Waterfront Department has conducted revenue examinations ("audits") of its percentage rent paying tenants. These revenue examinations are to ensure that tenants are calculating their percentage rent appropriately and are in compliance with lease requirements. The revenue examination process and percentage rent protocols require a specialized form of accounting engagement referred to as forensic accounting.

The Waterfront Department has conducted Request for Proposal processes in the past for the revenue examination services. On each occasion Mitchell & Associates (formerly Pyne, Waltrip, Decker and McCoy) was either the only party to respond or was selected over other parties as the most qualified firm to provide the revenue engagement services for the Department. Mitchell & Associates provides a professional product that is fairly priced. They have also established solid professional relationships with all of the Waterfront tenants and have provided the Waterfront Department with outstanding service in the past. Mitchell & Associates is familiar with the Waterfront Department's business activities and processes as well as the intricacies of Department leases regarding sales, rents, percentage rents and reporting requirements.

Funds for these services have been budgeted in the Waterfront Department / Property Management program.

**PREPARED BY:** Brian J. Bosse, Waterfront Business Manager  
**SUBMITTED BY:** Scott Riedman, Waterfront Director  
**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2016

**TO:** Mayor and Councilmembers

**FROM:** Patrol Division, Police Department

**SUBJECT:** State Of California Office Of Traffic Safety Selective Traffic Enforcement Grant

**RECOMMENDATION:** That Council:

- A. Accept a grant from the State of California Office of Traffic Safety in the amount of \$280,000 and authorize the Chief of Police to execute the grant agreement; and
- B. Increase appropriations and estimated revenues by \$280,000 in the Miscellaneous Grants Fund for Fiscal Year 2016 for the Selective Traffic Enforcement Program.

### **DISCUSSION:**

The Santa Barbara Police Department applied for and received funding from the State of California, Office of Traffic Safety, for the Selective Traffic Enforcement Program. The primary goals of this program are to reduce the number of victims killed and injured in alcohol-impaired collisions, as well as collisions that result from other common vehicle code violations.

The grant covers the period of October 1, 2015 through September 30, 2016. The grant funds will be used to cover overtime and benefits for first line supervisors, officers, and staff who are assigned to meet the grant reporting requirements.

### **BUDGET/FINANCIAL INFORMATION:**

The funding from these grants will increase the department's Miscellaneous Grants Fund estimated revenue and expenditures by \$280,000.

**PREPARED BY:** Lt. Duarte, Patrol Assistant Division Commander/lsp

**SUBMITTED BY:** Camerino Sanchez, Chief of Police

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Pavement Preparation/Overlay Project

**RECOMMENDATION:** That Council:

- A. Award a contract with Granite Construction Company in their low bid amount of \$2,415,969 for construction of the Zone 2 Pavement Preparation/Overlay Project, and authorize the Public Works Director to execute the contract and approve expenditures up to \$193,278 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment;
- B. Authorize the Public Works Director to execute a contract with Flowers & Associates, Inc., in the amount of \$179,905 for construction support services, and approve expenditures of up to \$17,991 for extra services that may result from necessary changes in the scope of work;
- C. Authorize an increase in appropriations by \$313,232 from reserves in the Measure A Fund for the Zone 2 Pavement Preparation/Overlay Project; and
- D. Authorize an increase in appropriations and estimated revenues by \$54,400 in the Streets Capital Fund for the Zone 2 Pavement Preparation/Overlay Project funded from revenues received from Vista Oceano La Mesa Venture LLC.

**DISCUSSION:**

**PROJECT DESCRIPTION**

The Zone 2 Pavement Preparation/Overlay Project (Project) consists of repairing localized distresses, and/or grinding off deteriorated pavement, and overlaying with new asphalt on various roads throughout the City encompassing streets mainly in Zone 2 being the Upper State Street, Samarkand, and San Roque neighborhoods (Attachment). In addition, the Project includes access ramps at thirteen locations throughout the City as required by Americans with Disabilities Act (ADA) requirements and as part of the City's annual access ramp project. ADA requirements include adding

## Council Agenda Report

Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Pavement Preparation/Overlay Project

August 4, 2015

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access ramps where they do not currently exist and upgrading all non-compliant access ramps immediately adjacent to roadway grind and overlay work. In conjunction with this Project, parking lots maintained by the following divisions or departments will also be included in the work:

- Waterfront Department – Leadbetter Beach Entrance Lot and Leadbetter Beach Lot
- Public Works Downtown Parking Division – Parking Lots 8 and 12, Helena Street Lot, and the Enterprise Fish Company Lot

These facilities have been included in the Project on behalf of each department fund manager to take advantage of economies of scale.

### CONTRACT BIDS

Only one bid was received for the subject work, as follows:

	<b>BIDDER</b>	<b>BID AMOUNT</b>
1.	Granite Construction Company Santa Barbara, CA	\$2,415,969

The bid of \$2,415,969, submitted by Granite Construction Company (Granite), is an acceptable bid that is responsive to and meets the requirements of the bid specifications. Although only one bid was received, it is considered a fair price.

The change order funding recommendation of \$193,278, or eight percent, is typical for this type of work and size of project.

### CONSTRUCTION PHASE CONTRACT SERVICES

Staff recommends that Council authorize the Public Works Director to execute a contract with Flowers & Associates, Inc., (Flowers) in the amount of \$179,905 for construction support and inspection services. Flowers is one of the participants in the City's Prequalified Engineering Services Program and is experienced in this type of work.

### REVENUES RECEIVED FROM VISTA OCEANO LA MESA VENTURE LLC

Vista Oceano La Mesa Venture LLC (Vista Oceano) is a private developer that recently completed a subdivision, located at the 1700 Block of La Vista Del Oceano. A Planning Commission condition of approval for the subdivision was to perform pavement maintenance on La Vista Del Oceano. The developer has requested the City add this private work to the Project. Staff agreed and this work was identified as a bid alternative. The low bid amount for this work is \$54,400, although the actual cost may

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Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Pavement Preparation/Overlay Project

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be less as the bid quantities are conservative. Vista Oceano has paid the full amount to the City, whose contractor (Granite) will perform the required grind and overlay work on the agreed-upon portion of La Vista Del Oceano. Upon completion of the work, the Finance Director will appropriate the actual cost, not to exceed \$54,400, to the Streets Capital Fund and reimburse Vista Oceano the difference between the estimated and actual cost.

**COMMUNITY OUTREACH**

While advertising the Project, pre-construction notification letters were sent to property owners immediately adjacent to the planned work to inform them that any private work in the roadway needs to be completed prior to the Project. Following the award of the construction contract, staff will send an additional notification to residents and property owners to give them more detailed information about the upcoming work in their neighborhood. The contractor is required to perform door-to-door outreach, and contact all businesses affected by the work a minimum of two weeks prior to the scheduled work. The contractor is also required to deliver door hangers to each property adjacent to the work area 72 hours in advance to notify residents of the planned schedule. "No Parking" signs will also be posted by the contractor 72 hours in advance.

**FUNDING**

This Project is funded by Measure A (Transportation Sales Tax) and Utility User Tax funds, along with respective stakeholder contributions for their share of the work. Staff is recommending the appropriation of \$313,232 from reserves in the Measure A Fund to cover costs associated with access ramps. There are sufficient appropriated funds within the Streets Capital Fund and the stakeholders' programs to cover the cost of this Project.

The following summarizes the expenditures recommended in this report:

**CONSTRUCTION CONTRACT FUNDING SUMMARY**

	<b>Basic Contract</b>	<b>Change Funds</b>	<b>Total</b>
Construction Contract	\$2,415,969	\$193,278	\$2,609,247
Consultant Contract	\$179,905	\$17,991	\$197,896
<b>TOTAL RECOMMENDED AUTHORIZATION</b>			<b>\$2,807,143</b>

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Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Pavement Preparation/Overlay Project

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The following summarizes all Project design costs, construction contract funding, and other Project costs:

**ESTIMATED TOTAL PROJECT COST**

*\*Cents have been rounded to the nearest dollar in this table.*

Design (by Contract)	\$44,609
City Staff Costs	30,000
<b>Subtotal</b>	<b>\$74,609</b>
Construction Contract	\$2,415,969
Construction Change Order Allowance	193,278
<b>Subtotal</b>	<b>\$2,609,247</b>
Construction Management/Inspection (by Contract)	\$197,896
Construction Management/Inspection (by City Staff)	120,000
<b>Subtotal</b>	<b>\$317,896</b>
<b>TOTAL PROJECT COST</b>	<b>\$3,001,752</b>

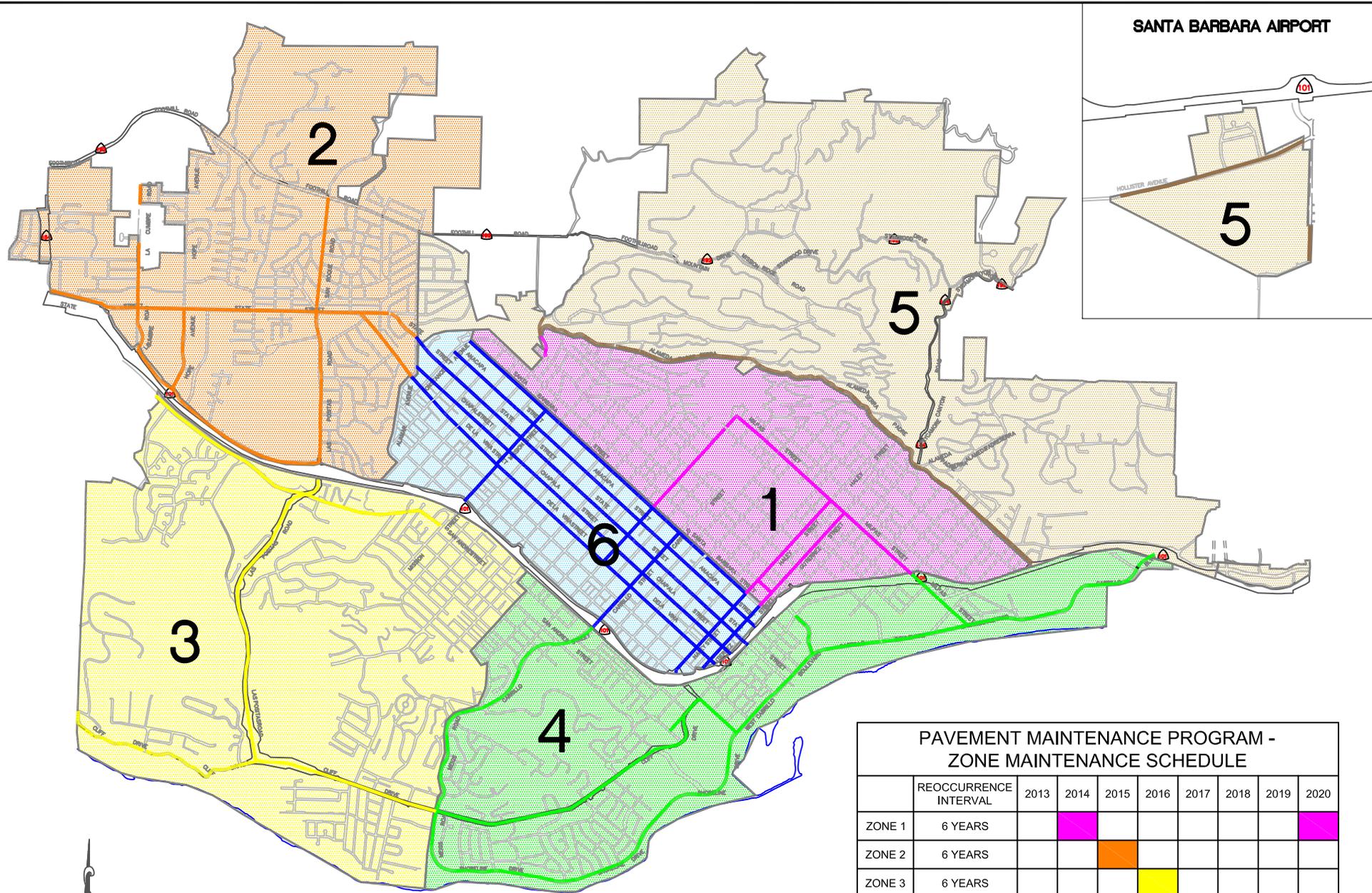
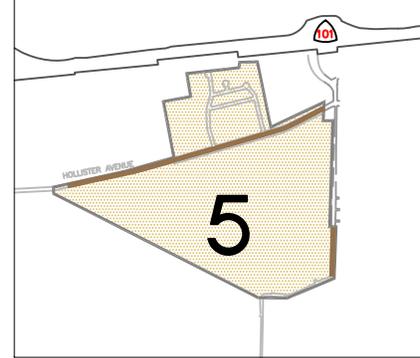
**ATTACHMENT:** Pavement Zone Map

**PREPARED BY:** John Ewasiuk, Principal Civil Engineer/AS/sk

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office

SANTA BARBARA AIRPORT



PRIORITY ROADS HIGHLIGHTED

	REOCCURRENCE INTERVAL	2013	2014	2015	2016	2017	2018	2019	2020
ZONE 1	6 YEARS								
ZONE 2	6 YEARS								
ZONE 3	6 YEARS								
ZONE 4	6 YEARS								
ZONE 5	6 YEARS								
ZONE 6	6 YEARS								

NO.	DATE	APPROVED	DESIGN	DRAWN	CHECKED

CITY OF SANTA BARBARA  
**PAVEMENT ZONE MAP**  
 UPDATED JUNE 2013

PBR. NO.	BID NO.	SH. DES.	DWG. NO.	SH. OF

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# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Slurry Seal Project

**RECOMMENDATION:** That Council:

- A. Award a contract with American Asphalt South, Inc., in their low bid amount of \$489,389 for construction of the Zone 2 Slurry Seal Project, and authorize the Public Works Director to execute the contract and approve expenditures up to \$48,939 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and
- B. Authorize the Public Works Director to execute a contract with Flowers & Associates, Inc., in the amount of \$106,675 for construction support services, and approve expenditures of up to \$10,668 for extra services that may result from necessary changes in the scope of work.

### **DISCUSSION:**

#### PROJECT DESCRIPTION

The Zone 2 Slurry Seal Project (Project) consists of re-sealing roadways on various roads throughout the City, encompassing streets mainly in Zone 2 being the Upper State Street, Samarkand, and San Roque neighborhoods (Attachment). In conjunction with this Project, parking lots maintained by the following divisions or departments will also be included in the work:

- Waterfront Department – Leadbetter Beach Entrance Lot and Leadbetter Beach Lot
- Public Works Downtown Parking Division – Parking Lots 8 and 12, Helena Street Lot, and the Enterprise Fish Company Lot

These facilities have been included in the Project on behalf of each department fund manager to take advantage of economies of scale.

## Council Agenda Report

Contract For Construction Of The Zone 2 (Upper State Street, Samarkand, and San Roque Neighborhoods) Slurry Seal Project

August 4, 2015

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### CONTRACT BIDS

A total of three bids were received for the subject work, ranging as follows:

	<b>BIDDER</b>	<b>BID AMOUNT</b>
1.	American Asphalt South, Inc. Fontana, CA	\$489,389
2.	Roy Allan Slurry Seal, Inc. Santa Fe Springs, CA	\$571,620*
3.	VSS International, Inc. West Sacramento, CA	\$801,403

\*Corrected bid total.

The low bid of \$489,389, submitted by American Asphalt South, Inc., is an acceptable bid that is responsive to and meets the requirements of the bid specifications.

The change order funding recommendation of \$48,939, or ten percent, is typical for this type of work and size of project.

### CONSTRUCTION PHASE CONTRACT SERVICES

Staff recommends that Council authorize the Public Works Director to execute a contract with Flowers & Associates, Inc., (Flowers) in the amount of \$106,675 for construction support and inspection services. Flowers is one of the participants in the City's Prequalified Engineering Services Program and is experienced in this type of work.

### COMMUNITY OUTREACH

While advertising the Project, pre-construction notification letters were sent to property owners immediately adjacent to the planned work, to inform them that any private work in the roadway needs to be completed prior to the Project. Following the award of the construction contract, staff will send an additional notification to residents and property owners to give them more detailed information about the upcoming work in their neighborhood. The contractor is required to perform door-to-door outreach, and contact all businesses affected by the work a minimum of two weeks prior to the scheduled work. The contractor is also required to deliver door hangers to each property adjacent to the work area 72 hours in advance to notify residents of the planned schedule. "No Parking" signs will be also be posted by the contractor 72 hours in advance.

FUNDING

This Project is funded by Measure A and Utility User Tax funds, along with respective stakeholder contributions for their share of the work. There are sufficient funds within the Streets Capital Program and the stakeholders' programs to cover the cost of this Project.

The following summarizes the expenditures recommended in this report:

**CONSTRUCTION CONTRACT FUNDING SUMMARY**

	<b>Basic Contract</b>	<b>Change Funds</b>	<b>Total</b>
Construction Contract	\$489,389	\$48,939	\$538,328
Constultant Contract	\$106,675	\$10,668	\$117,343
<b>TOTAL RECOMMENDED AUTHORIZATION</b>			<b>\$655,671</b>

The following summarizes all Project design costs, construction contract funding, and other Project costs:

**ESTIMATED TOTAL PROJECT COST**

*\*Cents have been rounded to the nearest dollar in this table.*

Design (by Contract)	\$44,609
City Staff Costs	\$30,000
<b>Subtotal</b>	<b>\$74,609</b>
Construction Contract	\$489,389
Construction Change Order Allowance	\$48,939
<b>Subtotal</b>	<b>\$538,328</b>
Construction Management/Inspection (by Contract)	\$117,343
Construction Management/Inspection (by City Staff)	\$65,000
<b>Subtotal</b>	<b>\$182,343</b>
<b>TOTAL PROJECT COST</b>	<b>\$795,280</b>

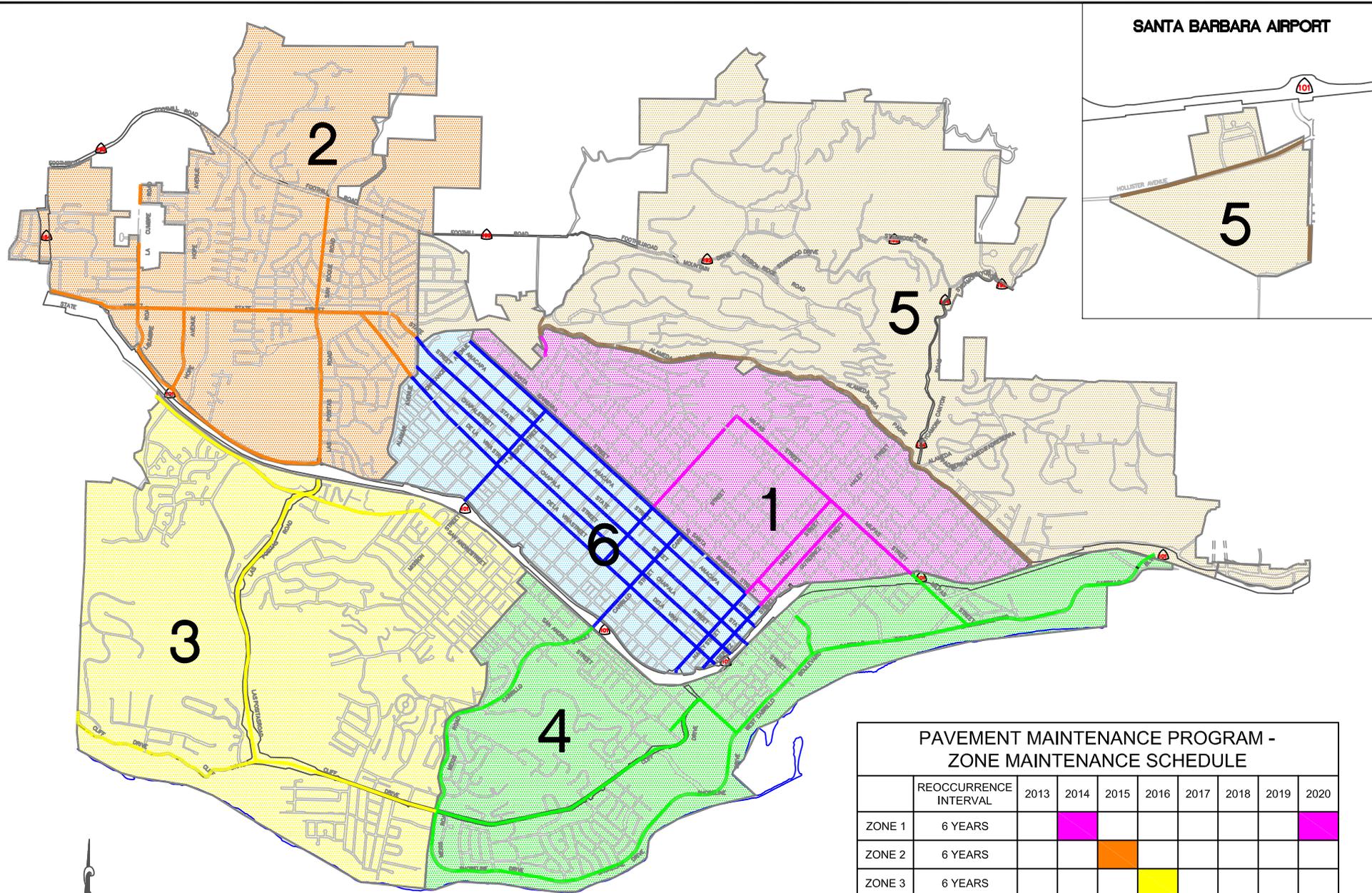
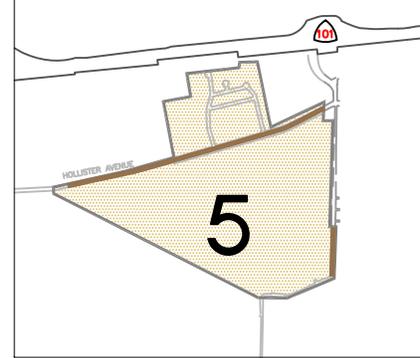
**ATTACHMENT:** Pavement Zone Map

**PREPARED BY:** John Ewasiuk, Principal Civil Engineer/AS/sk

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office

SANTA BARBARA AIRPORT



PRIORITY ROADS HIGHLIGHTED

	REOCCURRENCE INTERVAL	2013	2014	2015	2016	2017	2018	2019	2020
ZONE 1	6 YEARS								
ZONE 2	6 YEARS								
ZONE 3	6 YEARS								
ZONE 4	6 YEARS								
ZONE 5	6 YEARS								
ZONE 6	6 YEARS								

PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION

APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
 CITY ENGINEER

DESIGN \_\_\_\_\_ DATE: \_\_\_\_\_  
 DRAWN \_\_\_\_\_  
 CHECKED \_\_\_\_\_

NO.	DATE	APPROVED	REVISIONS

CITY OF SANTA BARBARA  
**PAVEMENT ZONE MAP**  
 UPDATED JUNE 2013

PBR. NO. \_\_\_\_\_  
 BID NO. \_\_\_\_\_ SH. DES. \_\_\_\_\_  
 DWG. NO. \_\_\_\_\_  
 SH. \_\_\_\_\_ OF \_\_\_\_\_



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Design Of Light Industrial Buildings on Airport Parcels 17 And 22

### **RECOMMENDATION:**

That Council authorize the Public Works Director to execute a City Professional Services contract with Kupiec Architects PC in the amount of \$280,000 for design services of the Airport Parcels 17 and 22 Development Project, and authorize the Public Works Director to approve expenditures of up to \$28,000 for extra services of Kupiec Architects PC that may result from necessary changes in the scope of work.

### **DISCUSSION:**

Airport Department staff has been working to develop portions of its Specific Plan Area (Airport property north of Hollister Avenue) for many years. Several private developers have tried to develop the largest parcel (Parcel 22, located at 6100 Hollister Avenue) but were unable to put together a feasible project. In August 2014, City Council approved a Purchase and Sale Agreement with Direct Relief (DR) for the sale of an eight acre portion of Parcel 22. Direct Relief is designing their project now and has submitted their application for a Development Plan for a 125,000 square-foot warehouse and office project in July. The purchase of the property is expected to be completed in late spring 2016, for an amount estimated to be \$8.7 million.

Airport staff proposes to use proceeds from the sale to develop the remaining six acres of Parcel 22 and to develop Parcel 17, also in the Specific Plan area. At this time, staff is proposing to develop Parcel 17 with a single 5,000 square-foot building for light industrial uses, and to construct three to five light industrial buildings for a total of 20,000 square feet on the six-acre remainder of Parcel 22.

**PROJECT DESCRIPTION**

The work consists of preliminary design of improvements for tenant light industrial space, consistent with the Airport's approved Specific Plan. The work will include development plans for Parcel 17 and the remaining portion of Parcel 22 through the Design Development Phase. Plans and additional information will be prepared in support of an application for, and approval of, a Development Plan by the Planning Commission.

**DESIGN PHASE CONSULTANT ENGINEERING SERVICES**

Staff recommends that Council authorize the Public Works Director to execute a contract with Kupiec Architects PC in the amount of \$280,000 for design, and \$28,000 for potential extra services, for a total amount of \$308,000. Kupiec Architects PC is experienced in this type of work and was selected as part of an RFP process.

**FUNDING**

The following summarizes all estimated total Project costs:

**ESTIMATED TOTAL PROJECT COST**

Design (by Contract)	\$308,000
Final Design	400,000
<b>Subtotal</b>	<b>\$708,000</b>
Estimated Construction Contract w/Change Order Allowance	\$7,200,000
Estimated Construction Management/Inspection (by Contract or City)	500,000
<b>Subtotal</b>	<b>\$7,700,000</b>
<b>TOTAL PROJECT COST</b>	<b>\$8,408,000</b>

There are sufficient appropriated funds in the Airport Fund to cover the cost of the work covered by this agreement. The total Project cost estimate is shown in the table above.

**PREPARED BY:** Pat Kelly, Assistant Public Works Director, City Engineer/OT/mj

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Introduction Of Ordinance For Grant Funding Agreement For Recycled Water Plant Replacement Project

### **RECOMMENDATION:**

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Authorizing the Approval and Execution by the Public Works Director of a Proposition 84 Integrated Regional Water Management Subgrant Agreement with the Santa Barbara County Water Agency, Pertaining to the Grant Funding Award of \$1,045,222 for the City of Santa Barbara Recycled Water Enhancement (or Replacement) Project.

### **DISCUSSION:**

The California Department of Water Resources has selected the City of Santa Barbara's Recycled Water Replacement Project for award of up to \$1,045,222 in Proposition 84 Integrated Regional Water Management Program grant funding. In order to receive the funding, a subgrant agreement must be executed with the County of Santa Barbara. The subgrant agreement has a term that is longer than five (5) years, and therefore must be approved by ordinance in accordance with Section 521 of the Charter of the City of Santa Barbara.

### Background on State Funding

On June 17, 2014, Council adopted the Santa Barbara Countywide Integrated Regional Water Management Plan (IRWMP) 2013. State grant programs increasingly require the IRWMP in order to obtain funding for water related projects. The IRWMP establishes objectives for regional water management and identifies a suite of projects to meet those objectives.

On January 17, 2014, Governor Brown proclaimed a Drought State of Emergency and signed legislation to assist drought-affected communities as of March 1, 2014. The legislation also provided funding to better use local water supplies, including \$472.5

Million in Proposition 84 IRWMP funding, which is administered by the California Department of Water Resources (DWR).

#### Regional Projects Recommended for Funding

In response, the Santa Barbara County IRWMP Coordinator solicited projects for consideration into a 2014 Drought Solicitation Application. IRWMP cooperating partners recommended two projects for inclusion in the 2014 drought grant application submitted by Santa Barbara County: 1) City's Recycled Water Enhancement Project, and 2) Cachuma Operation and Maintenance Board (COMB) Emergency Pump Project.

The City of Santa Barbara's Recycled Water Enhancement Project consists of replacing the existing recycled water filtration plant with a new plant. The existing plant technology, constructed in 1989, does not reliably produce water that meets State Title 22 water quality requirements for turbidity. The new plant will be a microfiltration plant, which will consistently produce better-quality recycled water. The project is under construction and expected to be producing water by January, 2016.

#### Funding Award

The total funding request by the County of Santa Barbara was \$4,094,280, of which \$2,014,280 was for the City's Recycled Water Enhancement Project, and the remainder was for the COMB Emergency Pump Project and some grant administrative costs. The State DWR has approved the application and awarded \$2,124,564 in funding. The City's share is \$1,045,222 for the Recycled Water Enhancement Project.

The DWR requires that the grant agreement be entered into with a single eligible grant recipient, which, in this case, is the Santa Barbara County Water Agency. In turn, the grant recipient must enter into subgrant agreements with the other public agencies receiving the grant award. Therefore, the City must enter into the Subgrant Agreement with the Santa Barbara County Water Agency to receive the grant award.

#### **BUDGET/FINANCIAL INFORMATION:**

Partial funding for the Reclaimed Water Enhancement Project is available in the current Water Capital Fund budget. The IRWM drought grant award of \$1,045,222 will offset the need for Water Fund revenues or reserves to fund this project. The total estimated project costs are approximately \$14.5 million.

**PREPARED BY:** Joshua Haggmark, Water Resources Manager/KD/mh

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AUTHORIZING THE APPROVAL AND EXECUTION BY THE PUBLIC WORKS DIRECTOR OF A PROPOSITION 84 INTEGRATED REGIONAL WATER MANAGEMENT SUBGRANT AGREEMENT WITH THE SANTA BARBARA COUNTY WATER AGENCY PERTAINING TO THE GRANT FUNDING AWARD OF \$1,045,222 FOR THE CITY OF SANTA BARBARA RECYCLED WATER ENHANCEMENT (OR REPLACEMENT) PROJECT

WHEREAS, the City of Santa Barbara (City) has participated in the development of an Integrated Regional Water Management Plan in response to the California Department of Water Resources Integrated Regional Water Management (IRWM) Program;

WHEREAS, Gerald E. Brown, Governor of California, proclaimed a Drought State of Emergency on January 17, 2014, and, on March 1, 2014, signed legislation to assist drought-affected communities and provide funding to better use local water supplies, including \$472.5 million Proposition 84 IRWM funding;

WHEREAS, City of Santa Barbara Resolution No. 14-051 authorized submittal of an application for 2014 IRWM Drought grant funding for the City of Santa Barbara Recycled Water Enhancement Project;

WHEREAS, the Santa Barbara County Water Agency, on behalf of the City of Santa Barbara and the Cachuma Operations and Maintenance Board, applied for and received grant funding through the State of California Department of Water Resources (DWR) Proposition 84 Drought Grant Round for two drought relief projects, namely the City of Santa Barbara's Recycled Water Enhancement Project and COMB's Lake Cachuma Drought Pumping Facility Project;

WHEREAS, the DWR has approved the grant application and requires that the Santa Barbara County Water Agency enter a Subgrant Agreement with the the City which will have a term of 35 years.

WHEREAS, Santa Barbara Charter Section 521 requires that all contracts that bind the City for a term longer than five (5) years be approved by ordinance, adopted by the City Council of the City of Santa Barbara.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

Section 1. All of the recitals herein contained are true and correct and the City Council so finds.

Section 2. In accordance with the provisions of Section 521 of the Charter of the City of Santa Barbara, that a Proposition 84 Integrated Regional Water Management Subgrant Agreement between the Santa Barbara County Water Agency and the City of Santa Barbara for the Recycled Water Enhancement Project, is hereby approved.

Section 3. The form of the Subgrant Agreement, on file with the City Clerk, is hereby approved, and the City of Santa Barbara Public Works Director is hereby authorized and directed, for and in the name and on behalf of the City, to execute the Subgrant Agreement with the Santa Barbara County Water Agency in substantially said form and any amendments thereto, subject to Approval as to Form by the City Attorney.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Sole Source Authorization To Purchase Acoustic Testing Equipment For The Wastewater Collection System

**RECOMMENDATION:** That Council:

- A. Approve and authorize the General Services Manager to issue a Sole Source Purchase Order to 3T Equipment Company for \$51,510.64, for the purchase of sanitary sewer acoustic testing equipment; and
- B. Find it to be in the City's best interest to approve equipment standardization for sanitary sewer acoustic testing equipment for the next five-year period, in accordance with Sections 4.52.070 (k) and (l) of the Municipal Code.

### DISCUSSION:

#### BACKGROUND

In 2014, the Water Resources Division launched its Acoustic Testing Pilot Program to test sewer mains using sonic wave technology. Staff purchased a Sewer Line Rapid Assessment Tool (SL-RAT), which is a portable onsite assessment tool that provides sewer line blockage assessment results in a fraction of the time it takes to either clean or to Closed-Circuit-TV (CCTV)-inspect the pipe. This new technology, where active acoustic transmissions are received and measured within a sanitary sewer pipe, was developed within the past five years. Pipes with low-score results indicate that there may be a blockage, and Wastewater staff can perform immediate follow-up actions such as CCTV inspection or cleaning. Pipes with high scores are generally found to be clear and do not require any immediate follow-up action.

In the past year, staff has found benefit in the SL-RAT technology as it provides a reliable assessment of timely sewer maintenance needs in small-diameter sewer mains, which helps prevent Sanitary Sewer Overflows (SSOs). Therefore, an additional SL-RAT device was purchased in May 2015, which provides increased equipment redundancy when the other SL-RAT device is in need of repair.

The Wastewater Section is now expanding its acoustic testing program to include contracted services this year. This contract work will include acoustic testing of approximately 2,000 pipe segments this fall, while Wastewater Section staff will continue their acoustic testing of approximately 250 pipe segments per month. Between contract and staff work, approximately 4,000 pipe segments will be acoustically tested in 2015, with the focus on 6-inch and 8-inch diameter sewer mains with 24-month to 60-month cleaning frequencies. Since the majority of 2014 SSO events occurred in 6-inch diameter pipe with these cleaning frequencies, focused attention on these pipes is designed to reduce SSOs.

In order to complete these additional acoustic testing activities in 2015, additional SL-RAT devices need to be purchased. Staff recommends that Council approve and authorize the General Services Manager to issue a Sole Source Purchase Order to 3T Equipment Company for \$51,510.64, for the purchase of sanitary sewer acoustic testing equipment. Additional devices will provide for increased equipment redundancy when other SL-RAT devices are in need of repair.

3T Equipment Company is the California sales representative for InfoSense, the SL-RAT manufacturer. InfoSense is the only known manufacturer of sanitary sewer acoustic testing equipment. Sections 4.52.070 (k) and (l) of the Municipal Code authorize Council to purchase supplies, equipment, and services without complying with the formal bid procedure when it is found that the goods or services are only available from one source and that purchasing these goods or services is in the best interest of the City. Staff recommends that Council approve the SL-RAT, associated appurtenances, and software as standard for sanitary sewer acoustic testing equipment through June 30, 2020.

**BUDGET/FINANCIAL INFORMATION:**

There are sufficient appropriated funds in the Wastewater Fund to cover project expenses.

**PREPARED BY:** Joshua Haggmark, Water Resources Manager/LA/mh

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Response To 2014-2015 Santa Barbara County Grand Jury Report  
On Zoning Information Reports

**RECOMMENDATION:** That Council:

- A. Receive the Santa Barbara County Grand Jury Report on Zoning Information Reports; and
- B. Authorize the Mayor to send a letter forwarding the City's response to the Grand Jury Report.

**DISCUSSION:**

On May 11, 2015, City Council received a letter and report from the 2014-15 County of Santa Barbara Grand Jury entitled, "City of Santa Barbara Zoning Information Reports – Inconsistent and Unreliable" (Attachment 1). Per the California Penal Code, Council is required to respond to the findings and recommendations of the Grand Jury Report within 90 days of receipt which is August 9, 2015.

On July 21, 2015, the City Council reviewed the draft City response to the Grand Jury Report. Council requested that certain revisions be made and additional information be added to the draft City response, and continued the discussion to August 4, 2015. The revised response letter is provided as Attachment 2.

During the Council deliberation on July 21, the benefits and importance of the Zoning Information Report (ZIR) were raised, and Council reaffirmed its intent that ZIRs remain mandatory. Council also directed staff to review the scope of the ZIR with the intention of reducing the scope, as appropriate. As part of the ZIR procedures manual being developed by staff, the scope of the ZIR will be analyzed and reduced where appropriate.

**ATTACHMENTS:** 1. 2014-2015 Santa Barbara County Grand Jury Report  
Entitled: "City of Santa Barbara Zoning Information Reports –  
Inconsistent and Unreliable"  
2. Draft City response letter to the 2014-2015 Grand Jury  
regarding the City's ZIR program

**PREPARED BY:** Susan Reardon, Senior Planner

**SUBMITTED BY:** George Buell, Community Development Director

**APPROVED BY:** City Administrator's Office

MAILING ADDRESS:  
GRAND JURY ROOM  
COUNTY COURTHOUSE  
SANTA BARBARA, CA  
93101



TEL: (805) 568-2291  
FAX: (805) 568-3301  
email: [sbcgj@sbcgj.org](mailto:sbcgj@sbcgj.org)  
[http:// www.sbcgj.org](http://www.sbcgj.org)

**GRAND JURY  
SANTA BARBARA COUNTY**

City of Santa Barbara  
City Council  
735 Anacapa Street  
Santa Barbara, CA 93101

**RECEIVED**

MAY 11 2015

**CITY ADMINISTRATOR'S OFFICE  
SANTA BARBARA**

Dear Council Members:

On behalf of the 2014-15 Santa Barbara County Grand Jury, I am enclosing a copy of our report, titled, ***City of Santa Barbara Zoning Information Reports – Inconsistent and Unreliable*** for your review and response.

The Grand Jury, County Counsel and the Presiding Judge, Arthur Garcia, have approved this report. The pertinent sections of the California Penal Code require the following:

- You are receiving this report two working days prior to its release to the public; you shall not disclose this report prior to its public release (California Penal Code Section 933.05(f)).
- You must respond to each relevant Finding and Recommendation in this report.
- You must submit your original response to Presiding Judge Arthur Garcia.
- You must also submit a printed copy to the current impaneled Grand Jury.
- If you are an elected county officer or agency head, the response time is not later than 60 days from the date of receipt of our report.
- If you are the governing body of a public agency subject to the reviewing authority of the Grand Jury, the response time is not later than 90 days of receipt of our report.

Your response will be posted on the Grand Jury website and may be included in our official published response report. Please send your response to:

The Honorable Arthur Garcia  
Santa Maria Juvenile Court  
4263 California Blvd  
Santa Maria, CA 93455

and

Santa Barbara County Grand Jury  
1100 Anacapa Street  
Santa Barbara, CA 93101

Respectfully yours,

A handwritten signature in cursive script that reads "Smiller".

Sandi Miller  
Foreman  
2014-15 Santa Barbara County Grand Jury

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS Inconsistent and Unreliable**

### **SUMMARY**

The 2014-15 Santa Barbara County Grand Jury (Jury) received a number of requests to investigate the accuracy and reliability of the Zoning Information Report (ZIR) and the impacts it has on both sellers and buyers of residences in the City of Santa Barbara (City). Of the 482 California municipalities, approximately 20 require this type of report. Carpinteria is the only other city in Santa Barbara County that requires this type of report.

According to the City, ZIRs provide important information to both the sellers and buyers of residential property by identifying:

- zoning and permitted uses of the property
- past City permits and approvals
- any potential violations of City ordinances
- existing improvements on the site as documented in City files and archive plans

The key phrase here is “as documented in City files and archive plans.” If the City has no record of a permit or approval of existing improvements, the burden of proof falls on the current property owner.

The Community Development Department (CDD), which issues ZIRs, identifies only the following as major violations:

1. illegal dwelling units
2. illegal conversion to habitable space
3. loss of parking space
4. improvements within 50 feet of the coastal bluff
5. violations that pose an immediate fire or life safety risk

When major violations are identified, the report is given an enforcement case number and the seller is given a number to call in the Building and Safety Division. An assigned enforcement officer will work with the seller to remedy the violation(s).

No matter when they occurred, minor violations (Appendix A), can have serious financial consequences for the seller, even if the seller did not commit or know of the alleged violation. While minor violations are not referred to enforcement, the subsequent buyer is required to correct these, before or simultaneously, when applying for a building permit for *any* future improvements.

The seller is required, no later than five (5) days of entering into an “agreement of sale,” to apply for a ZIR. As a result, the ZIR often comes near the end of escrow. Unexpected violations can

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

throw the entire transaction into jeopardy, and may give the buyer a basis for renegotiating the price.

### **BACKGROUND**

The historical intent of the Zoning Information Report, when it was adopted in 1974, was to stop the proliferation of illegal and unpermitted rental units in garages and rooms being split in the larger Victorian homes in the downtown area. At that time, the City had a lack of housing units and the easiest way to add more in the minds of many (sellers, buyers and developers) was to increase the room count within the footprint of existing homes, garages, and outbuildings. The result was overcrowding, lack of adequate parking, and rundown houses which depressed the value of adjacent properties. Therefore, the two initial targets for inspectors were garage conversions and interior room splits. In the beginning, ZIRs were optional. Later they became mandatory.

Within a few years, the expansion of illegal dwelling units had been put in check, and neighbors became the most efficient instrument for reporting illegal conversions. Currently, vigilant neighbors perform a good service for the community when they report illegal units and parking problems within their neighborhood.

At their inception, ZIRs covered only illegal units and parking. They did not include minor violations. This practice resulted in some property owners believing that since a prior ZIR showed no violations and they had made no modifications, the current report would continue to show no violations. Today's ZIRs have morphed into a combination of the City zoning laws, permits and building codes. Today's inspections identify and document major and minor violations as preserving the "health and safety" of the community. However, CDD staff could not produce a definition of what constituted "health and safety."

With the improved technology that became available when the CDD moved to its current Garden Street location in the late 1980s, the amount of permitting information increased due to better resources and centralization of files and archives. Records of permits for improvements, such as decks, fountains and sunrooms were more easily available. However, City personnel admitted that over several years, files pertaining to property records have been misplaced, destroyed, taken and not returned, or simply lost (especially County-issued building permits lost during the 1970s, issued prior to the creation of the CDD).

If permits are not in the file, CDD staff presumes the improvements were not permitted. Many witnesses told the Jury that the City's files are disorganized and papers are misfiled. Staff states this can happen but alleges only rarely. One broker told us he had found documentation from another property in the file of his client. This is particularly disturbing as those misplaced documents are then missing from the proper files and if they cannot be located, the innocent homeowner would be cited with violations.

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

A number of interviewees told the Jury the CDD takes an adversarial position to these alleged violations, which the homeowners resent, especially if the violation occurred decades and many owners ago. According to CDD staff, over the last four years (2010-2013) on average, 82 percent of ZIRs had some sort of violation. This seemed like an unrealistically high number to the Jury. However, when the Jury asked for all ZIRs for the month of July 2014, of the 52 reports received, 46 had violations, or 88 percent. It is hard to believe that over three-quarters of homes sold in the City of Santa Barbara have zoning and/or building violations that require correction and fees.

Many homeowners and real estate agents provided evidence that although one ZIR is deemed clear, the next ZIR on the same property may cite violations, especially when a different Planning Technician II (PT II) inspects the property. The CDD is unapologetic about this. Reporting to the Planning Commission regarding who should be responsible for these discrepancies, the CDD replied, "How do you define accountability in the here and now, when the staff is no longer there?" In other words: *If the inspector is no longer with the City, mistakes made by the City are now the responsibility of the current homeowner.* "If we have no information on the property, are we accountable?" In other words: *If we can't find the proper paperwork, there was no paperwork, and the current owner must make this whole.* The CDD also emphasized that if something is overlooked, it does not mean it is approved.<sup>1</sup>

The Real Estate Transfer Disclosure Statement (TDS-11) has been required for all residential home sales in the State since 1987 (*California Civil Code Section 1102*). Every known problem or defect is required to be disclosed by the seller on this form. Because of this, information on a ZIR has become redundant in many cases as far as health and safety issues are concerned.

Many buyers request home inspections, conducted by licensed professionals who are far more qualified than a PT II. The PT II job description states "equivalent combination of training, education and experience that would provide the required knowledge and abilities." (See Appendix B.) The CDD staff noted there are no training manuals or consistency training for PT IIs in preparing ZIRs. The Jury was told training material is now being prepared.

### **METHODOLOGY**

The Jury interviewed Community Development Department staff, real estate agents and brokers, homeowners, a private sector consultant, and other real estate industry-related professionals. The Jury spoke with and interviewed representatives from other municipalities. It reviewed ZIRs, minutes of an ad hoc Working Group researching ZIRs, and various drafts for proposed changes. The Jury also attended the Planning Commission meeting devoted to the recommendations of the Working Group as well as the subsequent City Council Meeting.<sup>2</sup>

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<sup>1</sup> City of Santa Barbara Planning Commission Meeting November 13, 2014

<sup>2</sup> Santa Barbara City Council Meeting February 10, 2015

# **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

## **OBSERVATIONS**

Following a City Council meeting in December 2013 when the Santa Barbara Board of Realtors argued that ZIRs were being abused by the CDD, an ad hoc Working Group made up of three planning commissioners, two planning staff, three real estate brokers and two real estate staff, was formed to research the problem. The Working Group decided to focus on three main topics:

- Administrative Zoning Approvals
- Administrative Appeals
- Format Changes to the ZIR Form

None of the above topics addresses the crux of the problem: the CDD's reliance on incomplete files to investigate the permitting process, which creates serious discrepancies from one ZIR to the next. Staff told the Jury some discrepancies occurred because there was lack of follow-up of violations in the 1970s and 1980s, but today they are more vigorous about this. The CDD says that today's ZIRs show 5-10 percent discrepancies. A significant number of ZIR discrepancies (from the 1990s to 2005) occurred during the tenure of one City employee who subsequently left. Despite this fact, the City's clear position comes across as *if a permit is not in the file, then it never existed; or the seller must prove it does.*

The Jury heard from a number of homeowners, real estate brokers, agents, consultants and other professionals who experienced the following egregious Zoning Information Report discrepancies:

- A house built circa 1900 had a detached bedroom and bath on the property line. The City ordered it demolished. The homeowners were able to obtain aerial photos showing the original construction including the disputed rooms.
- One homeowner received a clean ZIR when she bought the property, but when she wanted to sell it, the new ZIR cited a number of violations that occurred before she bought her house; one being a fence that for many years sat two inches over the property line. When asked why she had to move the fence, a CDD manager told the Jury it was a "health and safety issue." When asked for clarification, the manager told the Jury they did not know what the fence was made of, so how could they tell it was safe? This cost the homeowner \$53,000 to resolve the problem.
- Another seller told the Jury the ZIR on his property indicated a deck had been built without permits, even though the "deck" was pavers on bare ground. The City added an amendment that said it would not enforce the violation, but they also would not remove it from the ZIR. The seller paid an attorney \$717 to get the matter cleared up.
- Another buyer purchased a house in 2014, and the ZIR was clear. When it recently went back on the market, the ZIR indicated a deck that had been there for 20 years was illegal, and the owner must obtain a permit to either remove it or rebuild the deck. It would not be permitted in its present state. Estimates for this came to \$75,000. As a result, the final price to the buyer was reduced by \$50,000. When dealing with the new buyer, the City changed its mind and allowed the deck to remain unaltered. The seller had no recourse as the property transfer had been completed.

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

- A seller was informed by CDD staff, "...there is evidence that you have moved a door and window." The seller hired two contractors to confirm this had not happened. Staff did not offer any evidence that it had. The upshot was CDD essentially said "never mind." Still, the seller had to pay the contractors for revised plans and the City for revised permits.
- The City wanted a seller to remove a carport that had been in existence for 50 years and had been reported as legal on three prior ZIRs. It cost him \$20,000 to verify the carport had existed from the time the house was built.
- In a similar instance the homeowner was cited for a deck shown incorrectly on the plans. However, the changes the inspector observed were due to changes at the time of construction. It cost more than \$4,000 to get the violation removed, but this was less than the cost for the City's demand for demolition.
- A son, trying to sell his deceased mother's home, received a ZIR stating the garage had been moved from its original site because of the window and door placement, resulting in a violation. He was able to locate a 30-year-old photo of himself at the age of 6 taken in front of the garage, showing the original placement had not changed. When originally developed, this tract had the option of locating the garage in different configurations on a site. If the inspector had done proper research, this would have been known.

If the PT II determines there is a violation, documents supporting the violation should be provided. Currently, it is up to the seller to provide documentation that proves otherwise. The Jury learned the position of CDD is that "We believe we can't support grandfathering in all improvements because we don't know for sure if they cause fire or life safety risks."<sup>3</sup>

There is no formal appeal process, nor does CDD recommend one. Rarely are the ZIRs disputed since they often come so close to the end of the escrow period. The most serious problem with the dispute process is that it must go back to the original PT II who made the report, leaving objectivity in question. Homeowners are charged \$465 for the ZIR and an additional \$135/hour with a three-hour minimum, if disputed. A formal appeal process with an independent party has not been established which would guarantee homeowners due process.

Clearly, there are no checks and balances with this current process.

Common sense must prevail regarding violations that go back decades or owners ago. If CDD feels it imperative to correct the alleged violation, it should have a documented system for remedying the situation. In other words, the Jury concludes, "if you did not do the crime, you should not pay the fine." If the City has no compelling reason for correction of these violations, other than income generation, how does the community benefit? The CDD appears to be unfocused and caught up in unnecessary minutia.

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<sup>3</sup> Ibid

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

The City of Carpinteria is an interesting contrast. It also requires an Inspection on Sale Report which costs \$245. Again, these began in the '80s because of illegal dwellings. Inspectors review the file prior to visiting the property and take relevant papers with them and then discuss with the seller what needs to be done to remedy a situation. Staff spends 30-45 minutes researching the office files. The inspector will spend approximately 30 minutes on the property, and at the end of an inspection, hand the homeowner a copy of the report. Total time for staff and inspector is 1.75 hours, and up to two hours for a complicated file. In contrast, the CDD of Santa Barbara states every attempt is made to complete the ZIR within 15 working days after an application is received. Additionally, the Jury was told Santa Barbara inspectors view the property first and then research the files. In the Jury's opinion, this is inefficient.

A Carpinteria inspector estimated major violations are about one percent. The discrepancy process is simple. When on site, the inspector tells the seller what needs to be done to remedy any violation. Remedies can be discussed with the inspector until both sides are satisfied. Where there are clerical errors, the City will clean them up.

The cost of a City of Santa Barbara ZIR is \$465, which is the highest in the state, however, the total cost can easily exceed \$1,000. If a homeowner disputes the findings and staff does additional research, the costs begin to escalate. If changes must be made, new permits must be acquired, even if the permit is for a demolition. This would be in addition to any requirement for new plans. While Staff says the department is "revenue neutral" these charges are in excess of other jurisdictions. Other municipalities charge much less for this type of report: the City of Los Angeles charges \$70.20, Pasadena \$150, Ventura \$35, and Carpinteria \$245. According to the CDD, ZIRs alone generate over \$240,000 annually.

### **ANALYSIS**

The State mandates the seller provide the buyer with a Real Estate Transfer Disclosure Statement (TDS-11). In addition to this Statement, many potential home buyers have a professional home inspection performed. These licensed professional inspectors are better qualified to inform the buyer and document any deficiencies, such as whether there is ball-and-tube wiring, adequate links to the sewer system and water and power hookups, whether the roof needs repair/replacing, or if a property is unhealthy, illegal or unsafe. These inspections are very detailed and much more comprehensive than the Zoning Information Report.

However, the perception of many is that the intense diligence of the CDD is to ferret out past sins, which generates additional income for the City. More than one witness told the Jury, "...every time the inspector comes out there are more violations." Indeed the City expects the CDD to generate 100 percent of its budget for this program from the money it collects. PT II inspectors appear to have taken their responsibility to a whole new level. The regulations are applied inconsistently with new inspectors and even, on occasions, with the same inspector. As an example, the Jury obtained five ZIRs on a particular property spanning the period from 1997

## CITY OF SANTA BARBARA ZONING INFORMATION REPORTS

to 2014. This property remained unchanged during these years (no new construction, additions or demolition performed) and was reported as follows:

<b>ZIRs On One Property For Years 1997 to 2014</b>				
<u>Year</u>	<u>Bedrooms</u>	<u>Full Bathrooms</u>	<u>Half Bathrooms</u>	<u>Violations**</u>
1997	5	4	2	Zoning & Building
2000	5	4	1	None
2002	4	4	2	Building
2011	3	3	2*	None
2014	4	4	2*	Building
* In 2011 two legal sinks noted; in 2014 same inspector noted those two sinks illegal				
** See Appendix C for violation details by year				

In another example, a property was listed on a ZIR as a triplex and the City collected taxes on it as a triplex. One ZIR indicated that since there were no permits on file prior to the 1950s, the City assumed the triplex was permitted. The next ZIR on the property noted that since there were no permits on file prior to the 1950s, permitting was not presumed and the triplex was therefore illegal.

A violation puts the property under a cloud which is reflected in the price of the home, as seen by the above examples. These decisions can cause hardship, both financially and emotionally, to the City's residents. Many are often under stress to sell because of health or relocation circumstances. A violation is consequential and letters from the City threaten fines. Banks' strict standards often require all violations be addressed immediately, prior to the close of a sale transaction. The results can be that the buyer backs out of escrow, or demands concessions. The concessions will probably be more than the cost to remedy, because the actual cost is unknown. The seller may decide to take the property off the market. To correct the violation, the owner pays fees, pays for plans, etc. It can cost thousands of dollars before approval is confirmed.

What disturbs the Jury most is the buyer of a property with a clean ZIR is not protected in the future. The next time the house is on the market, the current seller has no guarantee violations will not be cited, violations the homeowner did not commit, but will be required to abate.

The wording of the violation(s) in ZIRs is often ambiguous. A Planning Commissioner was troubled by such vague terms as "might encroach," "something appears to be," "there is evidence," and "appears," considering the weight the ZIR now has. This is particularly troubling when the City feels no obligation to confirm this, but insists that the homeowner must provide proof that the property, in its existing state, is not in violation. Interestingly, a City Attorney approves this vague language as "intentionally qualified language." The CDD is proposing that in the case of inconsistencies/discrepancies between ZIRs, it would only refer for enforcement the creation of an illegal dwelling unit and the physical loss of parking. What creates a "habitable space" appears to be discretionary. The CDD stated that areas used for living, eating, or sleeping

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

are what makes a room “habitable.” However, for 25 years a storage room in the home that had been converted to an office, and used to conduct business as such during that time, was deemed an unpermitted “habitable space.” Currently, staff is proposing changing “habitable space” to “the creation of new floor area” or “new conditional space.” At the City Council meeting, this was defined as “having heating and air conditioning.” A member of the Council asked, “In your mind, is this precise?”

In another proposal, CDD is suggesting a new Administrative Zoning Approval Process to reduce or waive zoning standards when there are unclear city records, discrepancies in the record (including in the ZIRs), or it is evident that the improvement has been there for a very long time, i.e. 50 years. When there are unclear records and discrepancies in the records, and it is evident an improvement was on the site prior to 1974, those improvements could be eligible for this approval. The word “could” is problematic as it involves a judgment call which could be reversed when the house again comes on the market. The Jury has concerns about this. Violations today are often called out when one inspector disagrees with the findings of the previous inspector. This proposal appears to set up uncertainty for future sellers and buyers. With the CDD’s more vigorous follow-up policy, the Jury is concerned as to how violations, both major and minor, will be treated. Without reliability, ZIRs are a worthless document to both the buyer and the seller.

Absurd as it sounds, portions of garages used for storage are deemed to have created a “physical loss of parking,” and therefore a major violation. A ZIR will state, “...the workbench and cabinets encroach into the required parking area in the garage. By City Zoning Ordinance, two covered parking spaces are required and must be maintained at all times.” This means a 20 by 20 foot covered unobstructed parking space. If half the garage is used for a workshop or for storage, it must be cleared out. This is where common sense comes into play. The Jury understands the need for off-street parking, but the requirement for a 20 by 20 foot cleared space that is covered is overly restrictive and impossible to achieve in some of the older homes in the City. The City should require adequate off-street parking, but in the Santa Barbara climate, requiring covered parking seems excessive and the regulations need to be revised.

### **CONCLUSION**

After a vigorous investigation, the 2014-15 Santa Barbara County Grand Jury concludes that while Zoning Information Reports had an important role to play in preserving neighborhoods from overcrowding, time has caught up with them and they no longer hold the relevance they once had. When it became possible to access previous history, the ZIR process changed and staff began to play catch-up with often disastrous unintended consequences. With the introduction of the Real Estate Transfer Disclosure Statement and often subsequent home inspections, health and safety issues were more reliably described and identified by professionals in their fields. The parking rules originally designed to preserve neighborhoods against overcrowding have become arbitrary, and to many, absurd.

# **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

The City of Santa Barbara needs to stand by the Zoning Information Reports produced by the Planning Division of the Community Development Department. The *past-mistakes-must-be-corrected* attitude is unprofessional and unfair to the innocent people simply trying to sell their homes. The onus should be on the City to prove that a violation exists, and not on the seller to prove that one does not exist.

Once the City affixes its official seal to the document, it should stand behind its staff and the information it provides.

## **FINDINGS AND RECOMMENDATIONS**

### **Finding 1**

While the City of Santa Barbara Zoning Information Report, instituted in 1974, has served an important purpose, the State now requires many of these safeguards through the Real Estate Transfer Disclosure Statement.

### **Recommendation 1**

That the City of Santa Barbara declare Zoning Information Reports voluntary, and used for informational purposes only.

### **Finding 2**

The practice of the City of Santa Barbara Community Development Department is that if information cannot be located by the Planning Technician II inspector, it is assumed it never existed and that owners must produce proof of its existence, or face violations.

### **Recommendation 2**

That the City of Santa Barbara Community Development Department institute a policy that if staff cannot prove that the property was altered during the current ownership, the City presumes the alteration previously existed.

### **Finding 3**

Homeowners, after having spent many hundreds, often thousands of dollars to establish that an improvement was permitted, and that the City was incorrect, still bear the cost of the investigation.

### **Recommendation 3**

That if the alleged violations prove to be incorrect, the City of Santa Barbara reimburse the homeowner for all costs incurred in the subsequent investigation.

### **Finding 4**

A City of Santa Barbara Zoning Information Report with no violations does not guarantee a future report will not show alleged unreported violations by previous owners.

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

### **Recommendation 4**

That the City of Santa Barbara provide certainty to the buyer by certifying each Zoning Information Report as accurate.

### **Finding 5**

If a violation reported on a City of Santa Barbara Zoning Information Report is found to be incorrect, the report is amended but the alleged violation is not necessarily removed by the Community Development Department.

### **Recommendation 5**

If a Zoning Information Report violation is found to be incorrect, that violation be removed entirely from the report.

### **Finding 6**

There is no formal appeal process. An "intent to dispute" is not an adequate appeals process.

### **Recommendation 6a**

That the City of Santa Barbara establish an appeals process that requires an outside mediator.

### **Recommendation 6b**

That the Zoning Information Report include a prominently stated and documented appeal process.

### **Finding 7**

The City Zoning Information Report Planning Technician II inspectors do not typically research the property records prior to the site visit.

### **Recommendation 7**

The Planning Technician II inspector review all relevant files prior to a site visit.

### **Finding 8**

The basic cost of a City of Santa Barbara Zoning Information Report is \$465.00, the highest in the State. Other municipalities charge considerably less.

### **Recommendation 8**

The price for a Zoning Information Report should be consistent with other municipalities.

### **Finding 9**

The requirement that a single-family residence maintain a covered, unobstructed, 20 foot by 20 foot parking space is overly restrictive.

### **Recommendation 9**

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

That the City rewrite this parking ordinance requirement in a more flexible manner while keeping on-street parking under control.

### **Finding 10**

There is no training manual for staff to conduct consistent Zoning Information Report inspections and reports.

### **Recommendation 10**

That the City of Santa Barbara write a detailed training manual defining the research policies, inspections, and procedures.

## **REQUEST FOR RESPONSE**

In accordance with *California Penal Code Section 933.05* each agency and government body affected by or named in this report is requested to respond in writing to the findings and recommendations in a timely manner. The following are the affected agencies for this report, with the mandated response period for each.

### **City of Santa Barbara City Council – 90 Days**

Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10

Recommendations 1, 2, 3, 4, 5, 6a, 6b, 7, 8, 9, and 10

# CITY OF SANTA BARBARA ZONING INFORMATION REPORTS

## Appendix A

### Minor Violations Listed on ZIR's issued during July 2014

#### Zoning Violations

- The workbench and cabinets encroach into the required parking area of the garage. By City Zoning Ordinance, two covered parking spaces are required and must be maintained at all times
- Trash cans and a wood pile are being stored [*sic*] in the required interior setbacks
- The trash enclosure encroaches [*sic*] into the front yard setback
- The viewing deck encroaches into the required interior setback
- The detached storage shed and playhouse encroach into the required interior setbacks
- The front fence exceeds the maximum allowable height of three and one half feet within 10 feet of a front lot line and within 10 feet of either side of a driveway for a distance of 20 feet back from the front lot line. The front hedge exceeds the required height of three and one-half feet (3-1/2') when located within a triangular area on either side of a driveway measured as follows: A. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line
- The storage shed encroaches into the required interior setback
- The play structure encroaches into the required interior setback
- The 1996 permit foer [*sic*] the rear viewing desk in the rear yard expired in 1996. The deck requires a new building permit and design review approval
- The air conditioning unit was added on the roof of the garage without the required design review approval
- The detached metal storage shed encroaches into the required interior yard setback
- The attached small storage room was added without the required permit. (Any attached structure required a building permit)
- The detached shed and the trash enclosure are located in the remaining front yard and possibility in the required interior setback
- The wood storage shed encroaches into the required interior setback
- The patio cover and the outdoor fireplace encroach into the required interior setbacks
- Debris, construction materials, and trash cans are being stored in front and interior setbacks
- The storage shed in the rear of Unit A encroaches into the setback
- Miscellaneous items are being stored in setbacks in Unit B
- Miscellaneous construction items are being stored behind garage and encroach into rear setback
- The trellis in the rear of the property was built within the 40' bluff setback, which in [*sic*] a violation of the Conditions of Approval of Planning Commission Resolution 057-90. Advisory Comment: In order to legalize trellis, the condition would have to be amended at Planning Commission with a revised geologist report

## CITY OF SANTA BARBARA ZONING INFORMATION REPORTS

### **Building Violations**

- There is [sic] no permits on record for the barbeque, sink and electrical appliances [sic] for the outdoor cooking area
- A door has been added to the carport without the required permit (within the front interior setbacks)
- Remodel was done to create a fourth bedroom without a building permit
- There is no permit on record for the attached patio cover at the rear of the house
- The stairs on the side of the garage were constructed without the required permit
- The trellis in the rear of the property was built without the required permit
- The trash enclosure was built without permits
- The built-in barbeque was constructed without permits
- There are no permits on file for the construction of the rear detached patio cover
- The playhouse with rabbit hutch underneath was constructed without building permit
- There are no permit on [sic] for the washer/dryer hookups in the garage
- The kitchen has been remodeled and enlarged to include part of the family room as shown on the 1961 floor plan. A center island with a new sink was installed and the washer/dryer hookups were moved from the kitchen area to the garage. A laundry sink was also added to the garage. All work was done without the required permits
- There is no permit on record for the air conditioning unit on the side of the dwelling
- The side patio cover was added without the required permit
- The kitchen was remodeled under a permit issued in 2009 (BLD2008-XXXXX). This permit was issued but never finalized [sic]. It appears that a kitchen island was added (with an additional sink) however this change was not documented in a revised project description
- The attached small storage room was added without the required permit. (Any attached structure required a building permit)
- There is no permit on record for the rear attached patio cover
- The air conditioning unit was added on the roof of the garage without the required permit
- The two vehicle carport was added without the required permit and design review approval. Also, the original plans for the duplex show a carport where the existing garage attached to Unit XXXX is located. The enclosure of the carport required a building permit and design review approval
- The trellis covers and deck were added without the required permits
- The shower was added in the upstairs ½ bathroom without the required permit
- A building permit is required for the side attached patio trellis
- There is no record of a permit for the bar sink in the guest bedroom. Further, Zoning allows only a five foot long counter
- The building permit for the deck (BLD2000-XXXXX) was issued in 2000 but expired in 2002
- The sink and electrical outlet were added to the outdoor counter without the required permit

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

- The viewing deck was added without the required building permit
- The patio cover was added without the required permit
- There is no permit on record for the alcove at the rear of the dwelling. This area is not habitable space.
- The wall between two of the bedrooms was removed to create one master bedroom. This work was done without the required permit
- The basement has been converted to habitable space with bedroom and full bathroom without building permits
- A half bath was added to one of the bedrooms without building permits
- There are no permits on file for the washer and dryer in the storage area of the basement
- There are no permits on file for the conversion of the carport in a garage by the addition of a garage door
- The trash enclosure was built without permits
- The half bathroom in the garage was added without the required permit

# CITY OF SANTA BARBARA ZONING INFORMATION REPORTS

## **APPENDIX B**

### **Planning Technician II Job Qualifications, ca 2005:**

#### **Knowledge of:**

- Basic principles and concepts of urban planning.
- Basic computer functions.
- Basic report writing, research methods and data compilation.
- Basic principles and techniques of inspection.
- Modern office methods, practices, procedures and computer equipment.
- Databases such as Crystal, Access, Excel.
- Pertinent laws, codes, ordinances, and regulations related to planning activities.
- Principles and concepts of urban planning.
- Penal code arrest and seizure procedure.
- Methods and techniques of conflict resolution.
- Complex principles and techniques of inspection.

#### **Ability to:**

- Learn to understand and interpret laws underlying general plans, zoning, and applicable environmental laws and regulations.
- Learn to interpret planning and zoning programs to the general public.
- Learn to enforce proper zoning requirements.
- Learn to work with diverse cultural and socio-economic groups.
- Compile technical and statistical information and prepare basic reports.
- Read and interpret mapping and survey data, site plans, zoning codes, legal descriptions and related information.
- Establish and maintain databases such as Crystal, Access, Excel.
- Understand and carry out oral and written directions.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain cooperative working relationships with those contacted in the course of work.
- Maintain physical condition appropriate to the performance of assigned duties and responsibilities which may include the following:
  - Sitting and standing for extended periods of time
  - Operating equipment
- Maintain effective audio-visual discrimination and perception needed for:
  - Making observations
  - Communicating with others
  - Reading and writing
  - Operating related equipment

## **CITY OF SANTA BARBARA ZONING INFORMATION REPORTS**

- Interpret and enforce applicable City, State, and Federal codes, ordinances, and regulation related to zoning, planning, and environmental laws.
- Enforce proper zoning requirements.
- Foster and use techniques of conflict resolution while working cooperatively with those contacted in the course of work.
- Effectively and competently present presentations to Planning Commission.

### **Experience and Training Guidelines**

- Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

#### **Experience:**

- A minimum of two years of planning or related experience is typically required.
- Training: Equivalent to the completion of the twelfth grade supplemented by college level course work in planning, geography, business administration or related field.

# CITY OF SANTA BARBARA ZONING INFORMATION REPORTS

## Appendix C

### Violations Called Out for One Property: 1997 – 2014 with No New Construction, Additions or Demolition Performed

#### 1997 Violations

**Zoning Violation:** A portion of the carport encroaches into the required interior yard setback.

**Building Violations:**

1. The hot tub/spa and deck were constructed without the required permits.
2. The carport and attached trellis were constructed without the required permits.
3. Where there is a pool or body of water over 18 inches, gates opening through fence or wall enclosures shall be equipped with a self-closing and self-latching device.

**2000 Violations** – None noted

#### 2002 Violations

**Building Violation:** Gates leading to pool area must be self-closing and self-latching.

#### 2011 Violations

**Building Violations** Permits also cannot be located for the barbeque, sink and electrical applicances [*sic*] for the outdoor cooking area. (Note, this inspector indicated “none” for Zoning Ordinance or Building Code violations.)

#### 2014 Violations:

**Building Violations**

1. There are no permits on record for the barbeque, sink and electrical applicances [*sic*] for the outdoor cooking area.
2. A door has been added to the carport without the required permit (within the front and interior setbacks).



# City of Santa Barbara

Office of Mayor

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August 4, 2015

Helene Schneider

**Mayor**

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The Honorable Arthur Garcia  
Santa Maria Juvenile Court  
4263 California Blvd.  
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Santa Barbara County Grand Jury  
1100 Anacapa Street  
Santa Barbara, CA 93101

Honorable Judge Garcia and Grand Jury Foreperson:

This letter is in response to the 2014-2015 Santa Barbara County Grand Jury's Report on the City of Santa Barbara's Zoning Information Reports (ZIRs). This response is provided pursuant to the requirements of State Penal Code Section 933 and 933.05.

The 2014-2015 Grand Jury Report was received by the City on May 11, 2015 and includes ten (10) Findings and eleven (11) Recommendations. The Findings and Recommendations relate to the necessity of ZIRs, ZIR preparation procedures, overall cost of the ZIR process, the reliability of ZIRs, ability to appeal the findings of a ZIR, and the City's residential parking requirements. The City of Santa Barbara appreciates the work that the 2013-2014 and 2014-2015 Grand Juries put into this Report.

The City of Santa Barbara City Council is aware of the issues surrounding the ZIR program. Over the last several years, the City has been working with the Santa Barbara Association of Realtors to improve the ZIR process in terms of timeliness, consistency, reliability, understandability, problem solving mechanisms, and violation identification. Improvements have been made including making ZIRs optional for condominiums, reducing the time between ZIR application submittal and the release of the final ZIR, reducing the cost for ZIRs for larger multi-unit complexes, emailing completed ZIRs to the applicant, and accepting ZIR applications by fax. Those changes have been welcomed by the real estate community.

More recently, after public hearings before the City Council and City Planning Commission in 2013, a ZIR Working Group was formed in January 2014 to address the issues and clarify and streamline the ZIR process. The ZIR Working Group was composed of representatives from the Santa Barbara Association of Realtors, active realtors in the community, members of the City Planning Commission, and City staff. The ZIR Working Group met over a ten month period and developed a number of recommended improvements to the ZIR preparation process. The recommendations of the ZIR Working Group, which were collaboratively developed and agreed upon, include:

- Revisions to the ZIR template



Please consider the environment before printing this letter.

Judge Garcia & Grand Jury Foreman

Re: 2014-2015 Grand Jury Report on the City of Santa Barbara's ZIR Program

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- Categorization of violations
- Clarification of the ZIR appeal period
- Deferral of violation abatement deadlines in certain situations
- Proposed establishment of a Minor Zoning Exception process, and
- Creation of new public handouts.

In November 2014, the City Planning Commission reviewed and concurred with the recommendations of the ZIR Working Group. The Planning Commission further recommended that City Council initiate an ordinance amendment to establish a Minor Zoning Exception process to give City staff the authority to grant relief from minor zoning regulations through the ZIR process, and direct staff to implement other changes recommended by the ZIR Working Group. In February 2015, the City Council held a public hearing and initiated an amendment to the Zoning Ordinance to establish the Minor Zoning Exception process and directed City staff to work on the ZIR process improvements recommended by the ZIR Working Group (Attachment).

The following ZIR Working Group recommendations have been implemented to date:

- Categorization of "major" and "minor" violations for the purposes of determining which violations are referred for immediate enforcement
- Delayed enforcement of violations in certain circumstances
- Retention of inspection photographs long-term

Staff is currently in the implementation phase of the following ZIR process improvements and anticipates completion within the next six months:

- Revising the ZIR template
- Establishing a ZIR procedures manual
- Establishing a Minor Zoning Exception process
- Creating a ZIR inspection checklist
- Creating a frequently asked ZIR question handout
- Creating a handout explaining how to abate violations
- Establishing a public outreach/information program

Many of the Findings and Recommendations contained in the Grand Jury Report cover the same issues as those discussed in great detail by the ZIR Working Group. Therefore, many of the City's responses to the Grand Jury's recommendations state that they "will not be implemented because it is not warranted or is not reasonable." With all due respect, this rather abrupt response language (in bold below) is not the City's preferred language, but required by the Penal Code. The City Council recognizes the Findings of the Grand Jury are important; however, in many cases, another recommendation or remedy was agreed upon by the ZIR Working Group, City Planning Commission, and City Council to address the underlying issue and is in process of being implemented.

With this important background information in mind, responses to the Grand Jury's Findings and Recommendations are provided below.

**Finding 1:** *While the City of Santa Barbara Zoning Information Report, instituted in 1974, has served an important purpose, the State now requires many of these safeguards through the Real Estate Transfer Disclosure Statement.*

**Response to Finding 1: The City disagrees wholly with this Finding.**

As stated in Santa Barbara Municipal Code (SBMC) §28.87.220, the primary purpose of a Zoning Information Report (ZIR) is to “provide information to the potential buyer of residential property concerning the zoning and permitted use of the property.” While the zoning designation of a property is easily obtained, the “permitted use of the property” is often subject to interpretation and requires a working knowledge of City ordinances, rules and records. In addition, the SBMC requires that a ZIR provide the following information:

- Street address and parcel number
- Zoning classification and permitted uses
- Occupancy and uses permitted as indicated and established by City records
- Any discretionary or administrative acts of record
- Any special restrictions in use or development which apply to the property
- Any known nonconformities or violations of any ordinances or laws
- The results of a physical inspection for compliance with the Zoning Ordinance and for compliance with Chapter 14.46 of the SBMC
- A statement of whether the real property has had a Sewer Lateral Inspection Report prepared within five years prior to the ZIR

The SBMC does not require that a ZIR include a review of the property's compliance with the Building Codes nor confirm the location of property lines.

Most of the above items are not included in the Real Estate Transfer Disclosure Statement. Although State-mandated disclosure statements encourage potential buyers to conduct their own investigations of the property, no City record check is required of either the seller or buyer as part of those disclosures. Furthermore, the Real Estate Transfer Disclosure Statement only requires a property owner to state if they are “**aware of**” any additions, alterations, or repairs that may have been made without the necessary permits or may not be in compliance with local codes. Many members of the public are unaware of the extent of improvements that require a permit and are not familiar with how to research the permit history, permitted uses, legality of structures or if the property contains legal nonconforming improvements. A ZIR is necessary to properly inform buyers of the property's status in terms of City records. Without a ZIR, a buyer does not have the City's perspective regarding the permitted uses of the property, zoning, nonconformities, or unpermitted construction. Staff's analysis of the facts based on a physical inspection of the property and historical record in the street and planning files is important, and these are included in ZIRs.

In addition to providing important information to the seller and buyer, ZIRs provide an important community benefit. ZIRs help maintain and protect neighborhoods and the City's housing stock by ensuring new construction meets codified health, safety and general welfare requirements. City staff has heard from residents that they appreciate ZIRs because they know the City will

inspect properties when they are sold. Many neighbors are reluctant to report a potential violation on their neighbor's property for fear of retaliation.

ZIRs also protect the community by providing a strong incentive for property owners to seek necessary City approvals and permits before making improvements. Most property owners are aware that ZIRs are required at the time of sale of the property and that improvements made on the property without the proper permits will be identified at that time. The elimination of the requirement for ZIRs could result in fewer property owners obtaining the proper City approvals or permits which may lead to an increase in illegal dwelling units, substandard construction, and need for future enforcement. For these reasons the City's adopted Housing Element supports the continuation of the ZIR program.

**Recommendation 1:** *That the City of Santa Barbara declare Zoning Information Reports voluntary, and used for informational purposes only.*

**Response to Recommendation 1: The Recommendation will not be implemented because it is not warranted or is not reasonable.**

This policy decision has been discussed at several recent public hearings before the City's Planning Commission (Sept. and Oct. 2013, Nov. 2014) and City Council (Aug. 2013 and Feb. 2015). At the conclusion of the most recent City Council hearing in February 2015, the City Council continued to support maintaining the mandatory requirement for ZIRs and directed staff to implement the recommendations of the ZIR Working Group and Planning Commission for improvements to the ZIR preparation process.

Eliminating the requirement for a ZIR or only using the ZIR for informational purposes will not negate the fact that a violation exists on a property; it will only potentially delay action to abate the violation. The City Council understood this in February and also recognized that the ZIR is an important mechanism to enforce relevant City ordinances and preserve the quality of the City's housing stock and neighborhoods.

It is important to note that a ZIR disclosure does not create the violation(s). Construction without required City approval or permit is a violation whether or not it is identified in a ZIR, and will continue to be required to be abated at the time the next building permit is sought or when a complaint is received. If this recommendation were implemented, in many cases, potential violations would not come to light for months or even years after the sale has closed. By that time it could be extremely challenging for the "new" property owner to hold the previous property owner responsible and obtain an appropriate remedy for the violation(s). Although the implementation of this recommendation might simplify the real estate transaction, it could lead to more property owners being upset and wishing they knew about the violations when they bought the property. Identifying zoning and building violations at the time of sale of a residential property gives the seller and buyer the same information from the City on the status of the property and the opportunity to decide how to resolve the violations. City staff has received few complaints regarding the ZIR process from prospective buyers of a property or neighbors. It is important to consider the many perspectives on the value of ZIRs and the purpose they serve to protect the community at large.

**Finding 2:** *The practice of the City of Santa Barbara Community Development Department is that if information cannot be located by the Planning Technician II inspector, it is assumed it never existed and that owners must produce proof of its existence, or face violations.*

**Response to Finding 2: The City partially agrees with this Finding.**

The ZIR inspector (Grand Jury utilizes the term "Planning Technician II inspector") uses many resources during the preparation of a ZIR. In addition to a site visit, the primary information sources include the street and planning files and the City's archive plans. If information in City files or archive plans does not include certain improvements observed during the site inspection, the ZIR inspector performs additional research. This research involves a number of sources including: Sanborn Maps, consultation and/or additional site inspection with City building inspectors, historic survey documentation, and aerial photographs. Staff also consults with the property owner or real estate agent to discuss the improvement and requests any information which could help establish when the improvement in question first appeared on the site. Staff sometimes asks the property owner to obtain the County Assessor's Residential Building Record which can help establish when the improvement in question first appeared on the property. Records that establish when an improvement was constructed help staff determine what City Codes were in effect at the time, and what standards and permits were necessary. Based on this research, staff uses its best judgment to resolve issues and, in many cases, decides to recognize an improvement as being legal when there is some credible evidence to support such a conclusion. However, if information in the record clearly indicates that an improvement is in violation of the Zoning Ordinance or lacks the necessary building permit, staff must note it as a violation.

If there are no original permits or original archive plans to reference, a note is added to the ZIR that states: "*There are no original building permits or plans on file for the dwelling. Therefore, no verification can be made as to the number and legality of the existing configuration of rooms.*" In these cases, any other obvious violations may be noted in the ZIR, evidenced by the date of construction, location of improvement (in relation to a known improvement), or apparent health or safety violations.

The ZIR Working Group discussed this issue at length. The discussion focused on gaining an understanding of all the information sources utilized by City staff during the preparation of a ZIR. The ZIR Working Group recommended a new section be added to the ZIR template that informs the property owner/potential buyer of the information sources utilized in reaching the conclusions contained in the ZIR. This new section has been added to the revised ZIR template which will be implemented in the near future.

**Recommendation 2:** *That the City of Santa Barbara Community Development Department institute a policy that if staff cannot prove that the property was altered during the current ownership, the City presumes the alteration previously existed.*

**Response to Recommendation 2: This Recommendation will not be implemented because it is not warranted or is not reasonable.**

The implementation of this Recommendation would neither be in compliance with the requirements of City's Zoning Ordinance nor further the purposes of a ZIR. In addition to basic information regarding the property such as street address, assessor parcel number, zone classification, and permitted uses of the property, SBMC Section 28.87.220.D requires "any known nonconformities or violations of any ordinances or law" to be included in the ZIR. This section of the Code states that "any" nonconformity or violation should be noted, not just ones that occurred during the current ownership.

Furthermore, given that the City is responsible for the regulation and protection of the general health, safety and welfare of the community, staff cannot ignore its responsibility to identify that which might cause someone harm or affect their or their neighbors' welfare. Additionally, Section 1272 of the Evidence Code provides that because it is the City's regular course of business to preserve the record of the City, the absence of a record is a trustworthy indication that the act or event did not occur, or that the condition did not exist. For these reasons, the City has a responsibility to disclose our records as they exist, and note any discrepancies therein.

This recommendation operates on the assumption that if the City presumes that the alteration existed when the current owner took ownership then the violation is avoided. However, if an alteration was constructed without permits at a time when permits were required, it does not matter who owns the property. The violation exists whether or not it was actually caused by the current owner.

Furthermore, implicit in this recommendation is the belief that if the violation was missed by the inspector for the prior ZIR, or was not abated during the ownership of the prior owner, the proper remedy for the current owner who is attempting to sell the property is for the City to "legalize" or ignore the existence of the violation. However, this is very concerning to the City because the underlying illegality of the violation and the remedy would remain unaddressed, and to allow its continuation would serve to harm the persons who live at the property or own property adjacent to the residence on which the violation is noticed.

**Finding 3:** *Homeowners, after having spent many hundreds, often thousands of dollars to establish that an improvement was permitted, and that the City was incorrect, still bear the cost of the investigation.*

**Response to Finding 3: The City agrees with this Finding.**

**Recommendation 3:** *That if the alleged violations prove to be incorrect, the City of Santa Barbara reimburse the homeowner for all costs incurred in the subsequent investigation.*

**Response to Recommendation 3: This Recommendation has been partially implemented.**

City staff encourages property owners to contact staff directly when there is concern regarding a noted violation. Staff works with property owners to gather information that may help establish the legal status of the construction in question. In more challenging cases, owners may find the help of a hired consultant beneficial to their cause, but that is a personal decision and not one mandated by the City.

The City conducts inspections and prepares ZIRs in good faith. It is understood that property owners may have a different perspective regarding the legality of the improvements on their property. Even when everyone is acting in good faith, disputes can arise. In instances when alleged violations prove incorrect, a refund of appeal fees paid to the City is now provided. However, due to lack of control of the scope and direction of private investigations, it would be inappropriate for the City to pay for these additional costs.

**Finding 4:** *A City of Santa Barbara Zoning Information Report with no violations does not guarantee a future report will not show alleged unreported violations by previous owners.*

**Response to Finding 4: The City agrees with this Finding, with qualifications.**

The ZIR Working Group discussed the issue of discrepancies between ZIRs at length, and identified recommendations to address them (Attachment).

City staff acknowledges that there may be instances of discrepancies between the findings of a current ZIR and a previous ZIR. Staff estimates that approximately only two to four ZIRs per month (or 4-8 %) have some kind of inconsistency or discrepancy with a previous ZIR.

When discrepancies occur, they usually fall into one or more of the following categories:

- The previous ZIR notes the improvement as existing and either does not indicate it is a violation or erroneously states that it is “non-conforming” (such as hedges).
- The previous ZIR notes the improvement as existing and states that it is a violation but was not referred to enforcement, or only partial enforcement occurred.
- The previous ZIR does not mention the improvement as existing and there is no evidence as to when the improvement first appeared, yet the owner states the improvement existed at the time they purchased the property.

There are various reasons for alleged discrepancies between ZIRs: 1) the level/quality of staff research performed during the preparation of previous ZIRs was less than acceptable in some cases; 2) the City record is occasionally unclear or lacking altogether; 3) the improvement may have been obscured from view by landscaping or an object had been placed over, or in front of, the improvement to obscure the view of it from the ZIR inspector, which was later removed; or, 4) the improvement was, in fact, added after the last ZIR was completed.

Staff has made improvements over the years to increase the reliability of ZIRs. Staff currently performs more in-depth research and regularly consults the archive plans when preparing a ZIR. Staff believes that the increased accuracy of today's ZIRs have led to many of the discrepancies with prior ZIRs.

Recognizing the need for improvements, staff is also in the process of standardizing procedures for preparing ZIRs and identifying violations. The procedures will give staff clear and consistent direction on how to prepare a ZIR, conduct the site inspection, determine what violations are identified in the ZIR, and how and what types of violations are referred for enforcement. Planning staff has also increased its early collaboration with property owners and Building and Safety Division staff when discrepancies arise before the ZIR is finalized. This increased collaboration has proven beneficial.

The City attempts to minimize the impacts of discrepancies between ZIRs. Staff currently expedites and simplifies the discretionary review process as much as possible and waives the Planning fees in cases of discrepancies between ZIRs. Planning staff also involves Building and Safety Division staff earlier in the process to identify information that may be necessary for the building permit.

The ZIR Working Group discussed several changes to the ZIR process to address discrepancies. These changes include establishing a Minor Zoning Exception process, which requires a Zoning Ordinance amendment, and to only refer violations for enforcement that involve the creation of an illegal dwelling unit or the physical loss of parking. Violations that involve the creation of new floor area or conditioned space would only be referred for enforcement if it appears to create an immediate health or safety risk.

**Recommendation 4:** *That the City of Santa Barbara provide certainty to the buyer by certifying each Zoning Information Report as accurate.*

**Response to Recommendation 4: The Recommendation will not be implemented because it is not warranted or is not reasonable.**

A ZIR is a good-faith effort at full disclosure to a potential buyer of authorized uses and occupancy of a property, including zoning violations and improvements constructed without City permits or approvals. At the time each ZIR is prepared, it is completed with a high level of confidence that it reflects the City's current record and understanding regarding improvements on the property. Although it is understandably frustrating to sellers and realtors, potential discrepancies with a prior ZIR does not invalidate the current ZIR as being the most accurate account of the property from the City's perspective.

Implicit in this recommendation is the belief that if the violation was missed by the inspector for the prior ZIR, or was not abated during the ownership of the prior owner, the proper remedy for the current owner who is attempting to sell the property is for the City to "legalize" or ignore the existence of the violation. However, this is very concerning to the City because the underlying illegality of the violation and the remedy would remain unaddressed, and to allow its continuation would serve to harm the persons who live at the property or own property adjacent to the residence on which the violation is noticed.

Implementation of this Recommendation would require changes to the ZIR preparation process and has the potential of extending the time period required to prepare a ZIR. When staff does make an error in a current ZIR, steps are taken to correct it (that process is further discussed in Recommendation 5). The ZIR Working Group did consider including a five-day preview period during which agents could review an electronic draft of the ZIR before the ZIR becomes final, and discuss any differences of opinion or concerns. While this option could provide additional assurance that the final report represents a consensual understanding of the property's status, it would lengthen the overall turnaround time for ZIRs.

**Finding 5:** *If a violation reported on a City of Santa Barbara Zoning Information Report is found to be incorrect, the report is amended but the alleged violation is not necessarily removed by the Community Development Department.*

**Response to Finding 5: The City disagrees wholly with this Finding.**

If a violation cited in a ZIR is later found to be incorrect, the report is amended or a memo is sent to the street file, and any associated enforcement action pertaining to that violation is withdrawn.

**Recommendation 5:** *If a Zoning Information Report violation is found to be incorrect, that violation be removed entirely from the report.*

**Response to Recommendation 5: A portion of this Recommendation is currently part of the City's ZIR preparation process, and part of the Recommendation will not be implemented because it is not warranted or is not reasonable.**

If a violation is found to be incorrect prior to the final ZIR being posted on the City's website, reference to the violation is removed from the ZIR and a new ZIR (without the violation) is produced. However, if a violation is found to be incorrect soon after the ZIR is posted on the City's website, an amended ZIR is issued with a note included in the violation section explaining why the conclusion was incorrect and indicates that the violation no longer pertains to the property. If several months have passed since the issuance of the ZIR, a memorandum is sent to the public street file that explains the new finding and that the violation no longer pertains to the property.

In order to maintain thorough and accurate public records, staff does not modify a ZIR after the ZIR has been sent to the street file and posted to the City's website. Since the ZIR becomes part of the public record once it's posted, staff cannot know if a ZIR has been downloaded and distributed to other persons not associated with the sale of the property, and it can cause confusion if two different ZIRs are circulating with different dates and conclusions. For that reason, staff appends to previously posted ZIRs, and does not remove them entirely from the record.

**Finding 6:** *There is no formal appeal process. An "intent to dispute" is not an adequate appeals process.*

**Response to Finding 6: The City disagrees wholly with this Finding.**

The ZIR Working Group discussed establishing a more formal appeal process, but concerns were expressed regarding the amount of additional time and costs associated with that process and agreed that maintaining the existing ten-day appeal period was appropriate.

Currently, the ZIR form states that an owner or agent has ten days from the receipt date of a ZIR to appeal its findings, and no fee is charged. In order to appeal the findings of the ZIR, a written letter stating the grounds for the appeal and any supporting documentation regarding the disputed finding(s) of the ZIR must be submitted. The owner or agent first works with the inspector that prepared the ZIR to resolve the appeal issues. The ZIR inspector is most familiar with the property as they recently inspected it for the ZIR. If an owner or agent is not satisfied with the determination of the ZIR inspector, the appeal is elevated to the Supervisor or City Planner level for further review.

Since there is no set appeal period established in the Municipal Code, a property owner may appeal the findings of the ZIR after the ten-day period specified on the ZIR form. However, because additional staff time is necessary to recall the records and basis for the findings and, in some cases, a follow-up site visit is warranted, staff's time to research an appeal after the ten-day period is subject to the hourly staff fee as established by the City Council.

**Recommendation 6a:** *That the City of Santa Barbara establish an appeals process that requires an outside mediator.*

**City Response to Recommendation 6a: The City will not be implementing this recommendation because it is not warranted or is not reasonable.**

In many cases it is appropriate and very helpful to turn to a professional mediator to help resolve disputes, with a typical goal of each party to compromise. However, in cases where a building or zoning code has been clearly violated, it would be inappropriate for the City to agree to the compromise of public health, safety and/or welfare. If a property owner disagrees with a factual conclusion made in a ZIR, the property owner may ask a court to review the basis on which the City's conclusion rests.

**Recommendation 6b:** *That the Zoning Information Report include a prominently stated and documented appeal process.*

**City Response to Recommendation 6b: This Recommendation has been implemented as it was a recommendation of the ZIR Working Group.**

The revised ZIR template contains a new Section titled "Expiration Date, Amendments to this ZIR, and Appeals." This Section explains the process to request an amendment to the ZIR and how a property owner or agent can appeal the ZIR findings. Staff anticipates beginning using the new ZIR template within the next month.

**Finding 7:** *The City Zoning Information Report Planning Technician II inspectors do not typically research the property records prior to the site visit.*

**City Response to Finding 7: The City disagrees wholly with this Finding.**

ZIR inspectors are trained to review the street and planning files prior to the site inspection. In some cases, archive plans are also reviewed prior to the inspection. The inspector also prepares a ZIR worksheet that contains basic property information (zoning, non-conforming aspects of the property, number of parking spaces, etc.), the property description from the last ZIR (if applicable), and previous zoning/building violations as a frame of reference for beginning the inspection. Any discrepancies in the record or missing information are noted to help inform the inspector about certain areas of the property that may warrant additional attention. The ZIR inspector brings the street file and ZIR worksheet with them to the site inspection for reference on site. Given this Finding of the Grand Jury and statements by the real estate community in recent public hearings, the ZIR inspectors have been reminded of this requirement.

**Recommendation 7:** *The Planning Technician II inspector review all relevant files prior to a site visit.*

**City Response to Recommendation 7: This Recommendation has been implemented as it is a current requirement of the ZIR inspector.**

This is a current requirement and will be included in the written staff procedures currently under development.

**Finding 8:** *The basic cost of a City of Santa Barbara Zoning Information Report is \$465.00, the highest in the State. Other municipalities charge considerably less.*

**Response to Finding 8: The City disagrees partially with this Finding.**

Any comparison of fees should take into consideration the level of service provided and whether or not the jurisdiction seeks to recover the full cost of providing the service. City staff researched many other municipalities to determine what they require upon the sale of residential property. There is a large variation in the report types and the type of information provided. Many municipalities that produce a "zoning report" do not perform site inspections. Some municipalities provide a computer printout of zoning requirements and known nonconformancies or violations based on information contained in their street file. Other municipalities provide information from their files and do a visual inspection of the exterior of the property and list any obvious violations. Some municipalities provide a limited interior/exterior inspection but only focus on certain health and safety or building code violations. Based on staff research, the costs of these varied services and the resultant reports range from \$30.00 to \$1,016.00 per unit. One jurisdiction's fee was based on the size of the residential unit. For residences less than 5,000 square feet the fee is \$385.00. For residences between 5,000 and 10,000 square feet the fee is \$591.00 and the fee for residences over 10,000 square feet is \$1,016.00. Due to the larger scope of the City's ZIRs and the fact that City Council has deemed the service to be full-cost recovery, the cost of a ZIR in the City does exceed that of many other jurisdictions.

**Recommendation 8:** *The price for a Zoning Information Report should be consistent with other municipalities.*

**Response to Recommendation 8: This Recommendation will not be implemented because it is not warranted or is not reasonable.**

This issue has been discussed before the City Council in several recent public hearings (Aug. 2013 and Feb. 2015). Zoning Information Reports are one of a few services provided by the Planning Division that the City Council has designated as being full cost recovery. The City Council has determined that it is not appropriate for public funds to subsidize private real estate transactions. If the cost of a ZIR were reduced below that which it costs the City to provide the service, the level of service would either have to be reduced accordingly or the funds would have to be absorbed by another program in the Planning Division. The cost of a ZIR has not increased since Fiscal Year 2011, and was actually reduced in FY2014 for larger multi-unit properties.

**Finding 9:** *The requirement that a single-family residence maintain a covered, unobstructed, 20 foot by 20 foot parking space is overly restrictive.*

**Response to Finding 9: The City disagrees wholly with this Finding.**

SBMC §28.90.045, Parking Design Standards, requires all parking facilities be designed and constructed pursuant to the current *City Standards for Parking Design*. The requirement for the minimum 20 foot by 20 foot interior clear space within a garage is contained in the *City Standards for Parking Design*, which was established in 1982. This minimum interior dimension is a standard requirement of many jurisdictions, both within California and nationwide.

**Recommendation 9:** *That the City rewrite this parking ordinance requirement in a more flexible manner while keeping on-street parking under control.*

**Response to Recommendation 9: This Recommendation will not be implemented because it is not warranted or is not reasonable.**

SBMC §28.90.045.B, Parking Design Standards - Variation, allows a property owner to apply for a waiver from the requirement for any of the design standards contained in the *City Standards for Parking Design*, including the minimum interior dimension of a garage. This provides flexibility on a case-by-case basis, as warranted. The Public Works Department reviews parking design waiver requests.

**Finding 10:** *There is no training manual for staff to conduct consistent Zoning Information Report inspections and reports.*

**City Response to Finding 10: The City agrees with this Finding.**

Staff agrees that there is currently no written training manual for preparing ZIRs. New ZIR inspectors are trained by staff currently preparing ZIRs.

**Recommendation 10:** *That the City of Santa Barbara write a detailed training manual defining the research policies, inspections, and procedures.*

**City Response to Recommendation 10: This Recommendation has been implemented as it was a recommendation of the ZIR Working Group.**

The ZIR Working Group recommended that staff prepare written procedures for the preparation of ZIRs, including relevant information sources, site inspection procedures, violation identification and enforcement referral, appeal process, and documentation. The ZIR Working Group also recommended that the scope and content of the ZIR be reviewed to only include information that is relevant, important, and consistent with the Zoning Ordinance requirements. The Planning Commission and City Council concurred with this recommendation. City staff is in the process of developing the written procedures. The written procedures will help with consistency and give clear guidance to staff on preparing ZIRs.

Judge Garcia & Grand Jury Foreman

Re: 2014-2015 Grand Jury Report on the City of Santa Barbara's ZIR Program

August 4, 2015

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Should the Grand Jury have any questions regarding the City's response or wish to follow up with the City, please contact me, City Administrator Paul Casey or City Attorney Ariel Calonne.

Sincerely,

Helene Schneider,  
Mayor

Attachment: February 10, 2015 City Council Agenda Report

Cc: City Councilmembers  
Paul Casey, City Administrator  
Ariel Calonne, City Attorney  
George Buell, Community Development Director  
Renee Brooke, City Planner  
Susan Reardon, Senior Planner



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Capital Improvement Projects: Annual Report For Fiscal Year 2015

### RECOMMENDATION:

That Council receive the City's Capital Improvement Projects Fourth Quarter and Annual Report for Fiscal Year 2015.

### EXECUTIVE SUMMARY:

A presentation will be made to Council summarizing the progress made on City capital improvement projects for the past fiscal year, which includes \$27 million in completed construction projects. The value of projects with construction in progress totals \$45,500,646, and the value of projects in the design phase totals \$112,166,405.

### DISCUSSION:

#### CONSTRUCTION HIGHLIGHTS – COMPLETED PROJECTS

Six projects were completed in the fourth quarter of Fiscal Year 2015, from April through June 2015. Attachment 1 displays a chart that shows the completed capital projects for the fourth quarter. Attachments 2 and 3 display the completed capital projects by fund for Fiscal Year 2015. The following describes the highlights of three completed construction projects:

- Lower Sycamore Creek Channel Widening and Punta Gorda Street Bridge Replacement (\$3,846,553) – The completed project consisted of widening Lower Sycamore Creek, removing and replacing the Punta Gorda Street Bridge. The work consisted of constructing an earthen channel and other drainage facilities; removing and replacing a concrete bridge and roadway approaches, relocating water, sewer, electric, communication, and gas facilities; placing riparian bank protection and planting; and installing irrigation systems.

- Zone 1 Slurry Seal (\$1,029,688) – The work consisted of re-sealing full roadways on various roads throughout the City which encompass streets mainly in Zone 1 (Eastside and Lower Riviera). The project also included work at various downtown and Waterfront parking lots.
- Alameda Park Well Relocation Well Drilling and Construction (\$1,308,148) – The completed project consisted of drilling and constructing of a fully functional municipal water production well. The work included demolition of the City's existing Alameda Park Well, construction of a temporary sound wall, staging, mobilization, and drilling the new well.

### CONSTRUCTION HIGHLIGHTS – IN PROGRESS

In addition, 18 projects are currently under construction, with an approximate construction contract value of \$45,500,646 (Attachment 4). The Interactive Map of Design and Construction Projects can be viewed at the following link: [www.santabarbaraca.gov/gov/depts/pw/engineering/major\\_projects](http://www.santabarbaraca.gov/gov/depts/pw/engineering/major_projects). The following are highlights of construction projects in progress:

#### Public Works Bridges:

- Cabrillo Boulevard Bridge at Mission Creek (\$13,989,151) – In July, the contractor completed the mountain side bridge demolition and started construction of the new bridge and upstream creek walls. In addition, work will continue this summer on the temporary pedestrian bridge on the beach side of the project. The project is scheduled to be complete by the end of 2016.
- Cota Street Bridge at Mission Creek (\$4,956,146) – The project is moving along well, and the existing bridge has been completely removed and the rubble cleared away. The project is on track to be complete by the end of 2015.
- Mason Street Bridge at Mission Creek (\$7,280,709) – Significant progress has been made to date as the contractor has completed installation of the east channel walls and bridge abutment. The creek channel has been widened, and the flow is now being routed in front of the new walls. Construction of the new west channel walls and bridge abutment is underway. The project is on schedule to be completed early in the second half of 2016.

#### Public Works Facilities:

- Laguna Lot Permeable Paver Project (\$1,200,231) – This project will replace two existing City-owned parking lots with permeable pavers. In June 2015, the contract for construction was awarded, and construction began in July. The project is scheduled to be complete in December 2015.

#### Successor Agency to the Redevelopment Agency of the City of Santa Barbara:

Lower West Downtown Lighting Improvement Project, Phase 2 (\$463,558) – The first phase of this project was completed in 2012. The second phase includes the 100-400

blocks of West Cota Street, the 500 and 600 blocks of Castillo, Bath and De La Vina Streets; Dibblee Avenue, and Bradbury Avenue. The work consists of installing 77 street lights, as well as installing underground conduits, electrical circuits, and related components. The light fixtures are City Standard fluted concrete poles with Malaga Green dome light fixtures. The project is scheduled to be complete in August 2015.

Public Works Wastewater:

- Digester Cleaning Project (\$870,895) – Cleaning of Digester Number Two was successfully completed in May 2015. The cleaning for Digester Number One is scheduled to begin in September 2015.

Public Works Water:

- Alameda Park Well Replacement Project (\$1,275,580) – This project consisted of the installation of piping and electrical conduit for the relocated Alameda Park Well and restoration of the site post construction. The work included drilling of a new well, abandonment of the existing well, tree replacement, along with landscaping and restoration of all construction impacted areas. The work was completed in July and is anticipated to go online early fall 2015.

PROJECTS IN DEVELOPMENT

In addition to the projects in construction, there are currently 41 projects in design, with an estimated total project cost of \$112,166,405 (see Attachment 4). At this time, the Desalination Project is not included.

Projects are scheduled to be funded over several years, as generally shown in the City's Six-Year Capital Improvement Program Report. These projects rely on guaranteed or anticipated funding and grants.

The following are design project highlights.

Public Works Bridge Program:

The City of Santa Barbara currently has nine active bridge projects. Three of these projects (Cabrillo, Mason, Cota) are currently in the construction phase. The total value of these three projects, including right of way expenses, is approximately \$52.5 million. The remaining six projects are currently in design. The projects in design include four bridge replacements (Gutierrez, De la Guerra, Anapamu, and Quinientos). The expected value of these four projects is \$24 million. The remaining projects in design include the Mission Canyon Road Bridge and a bridge preventative maintenance project at various locations. The total value of the nine active bridge projects is approximately \$80 million. It is anticipated that the City will be reimbursed for approximately 85 percent of these expenses.

Project Name	Estimated Project Cost	City Funds	Scheduled Construction Start
De La Guerra Bridge	\$6,235,000	\$850,000	2017
Gutierrez Bridge	\$6,665,750	\$900,000	2017
Anapamu Bridge	\$5,415,000	\$160,000	2017
Quinientos Bridge	\$5,622,500	\$160,000	2017
<b>Total</b>	<b>\$23,938,250</b>	<b>\$2,070,000</b>	
<b>% City Funds</b>		<b>8.6%</b>	

The design phase and environmental studies are ongoing for the De La Guerra, Gutierrez, Anapamu, and Quinientos Bridges, with construction scheduled for spring 2017.

Public Works Pavement Maintenance:

- Las Positas/Cliff Drive Intersection Improvements (\$1,600,000) – The Las Positas Road/Cliff Drive Roundabout Project will construct a single-lane roundabout at the intersection of Las Positas Road and Cliff Drive in order to reduce congestion and queuing during the morning and evening peak hours. Design is currently underway, and construction is anticipated to begin in summer/fall 2016.

Public Works Wastewater:

- El Estero Secondary Process Improvements Project - Final Design and Construction (\$21,286,298) – The project is currently in final design and will be competitively bid this fall. This project will address longstanding operational and energy inefficiency issues, and it will replace aging infrastructure. Construction will start in early 2016 and last approximately two years.

**SUMMARY:**

Fiscal Year 2015 ended with approximately \$27 million in complete construction, with approximately \$5.5 million coming from grant funding.

- ATTACHMENT(S):**
1. Completed Capital Improvement Projects for Fiscal Year 2015
  2. Completed Capital Improvement Projects Funding Fiscal Year 2015 – Table
  3. Completed Capital Improvement Projects Funding by Category Fiscal Year 2015 – Chart
  4. Capital Projects with Design and Construction in Progress

**PREPARED BY:** Pat Kelly, Assistant Public Works Director/City Engineer/TB

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator’s Office

**COMPLETED CAPITAL PROJECTS - FOURTH QUARTER FISCAL YEAR 2015**

<b>Project Name</b>	<b>Design Costs</b>	<b>Construction Contract</b>	<b>Construction Change Order Costs</b>	<b>Construction Management Costs</b>	<b>Total Project Costs</b>
Lower Sycamore Creek Channel Widening and Punta Gorda Street Bridge Replacement	\$576,388	\$1,865,965	\$661,414	\$742,786	<b>\$3,846,553</b>
Moreton Bay Fig Tree Post and Chain Boundary	\$4,657	\$72,200	-\$5,008	\$12,816	<b>\$84,665</b>
El Estero Digester High Performance Coating	\$11,148	\$411,000	-\$33,000	\$43,752	<b>\$432,900</b>
Zone 1 Slurry Seal	\$66,625	\$776,751	-\$21,883	\$208,195	<b>\$1,029,688</b>
Alameda Park Well Relocation Well Drilling and Construction	\$157,503	\$1,050,255	\$0	\$100,390	<b>\$1,308,148</b>
CCTV Inspections Fiscal Year 2014	\$17,573	\$205,597	\$62,126	\$48,420	<b>\$333,716</b>
<b>TOTALS</b>	<b>\$833,894</b>	<b>\$4,381,768</b>	<b>\$663,649</b>	<b>\$1,156,359</b>	<b>\$7,035,670</b>

**COMPLETED CAPITAL IMPROVEMENT PROJECTS FUNDING  
FISCAL YEAR 2015**

**FIRST QUARTER**

PROJECT TITLE	FUNDING													TOTAL PROJECT COSTS
	First Quarter	Airport	Creeks	Downtown Parking	Parks	General Fund	Facilities	Other	Streets	Streets Grants	Water	Wastewater	Waterfront	
Zone 6 (Fiscal Year 13) Pavement Preparation (1)						\$ 64,065		\$ 1,059,175	\$ 512,196			\$ 20,950		\$ 1,656,386
State Route 192 Utility Adjustments										\$ 118,852				\$ 118,852
													<b>Total First Quarter</b>	<b>\$ 1,775,238</b>

(1) Local Surface Transportation Program &amp; State Local Partnership Program

**SECOND QUARTER**

PROJECT TITLE	FUNDING													PROJECT COSTS
	Second Quarter	Airport	Creeks	Downtown Parking	Parks	General Fund	Facilities	Other	Streets	Streets Grants	Water	Wastewater	Waterfront	
School Zone Ped Refuge Island (1)								\$ 38,358	\$ 152,645					\$ 191,003
On Call Sewer Main Point Repairs FY 14											\$ 285,193			\$ 285,193
Reservoir No. 1 Joint Seal Repair										\$ 236,594				\$ 236,594
CDBG 2013-2014 Sidewalk Access Ramp Project (2)								\$ 104,041					\$ 98,883	\$ 202,924
Water Main Rehabilitation FY 13										\$ 4,228,704				\$ 4,228,704
Sycamore Cyn Rd Bank Repair Project										\$ 207,342				\$ 207,342
Valle Verde Well Upgrade										\$ 167,317				\$ 167,317
													<b>Total Second Quarter</b>	<b>\$ 5,519,077</b>

(1) Measure A

(2) Community Development Block Grant

**COMPLETED CAPITAL IMPROVEMENT PROJECTS FUNDING  
FISCAL YEAR 2015**

**THIRD QUARTER**

PROJECT TITLE	FUNDING													TOTAL PROJECT COSTS	
	Third Quarter	Airport	Creeks	Downtown Parking	Parks	General Fund	Facilities	Other Successor Agency	Streets	Streets Grants	Water	Wastewater	Waterfront		Other Grants
Safe Routes To School/Cleveland (1)									\$ 180,763	\$ 225,000					\$ 405,763
911 Call Center Temporary Relocation							\$ 2,375,625								\$ 2,375,625
Pavement Rehabilitation Runway 15L-33R (2)	\$ 268,519													\$ 2,609,507	\$ 2,878,026
Marina 1 Replacement Phase 5												\$ 1,922,041		\$ 1,922,041	
Wastewater Main Rehabilitation FY 14											\$ 1,215,760			\$ 1,215,760	
Wastewater Treatment Plant Influent Pumps Station Replacement											\$ 3,891,192			\$ 3,891,192	
														<b>Total Third Quarter</b>	<b>\$ 12,688,407</b>

(1) Safe Routes To School

(2) FAA Airport Improvement Grant

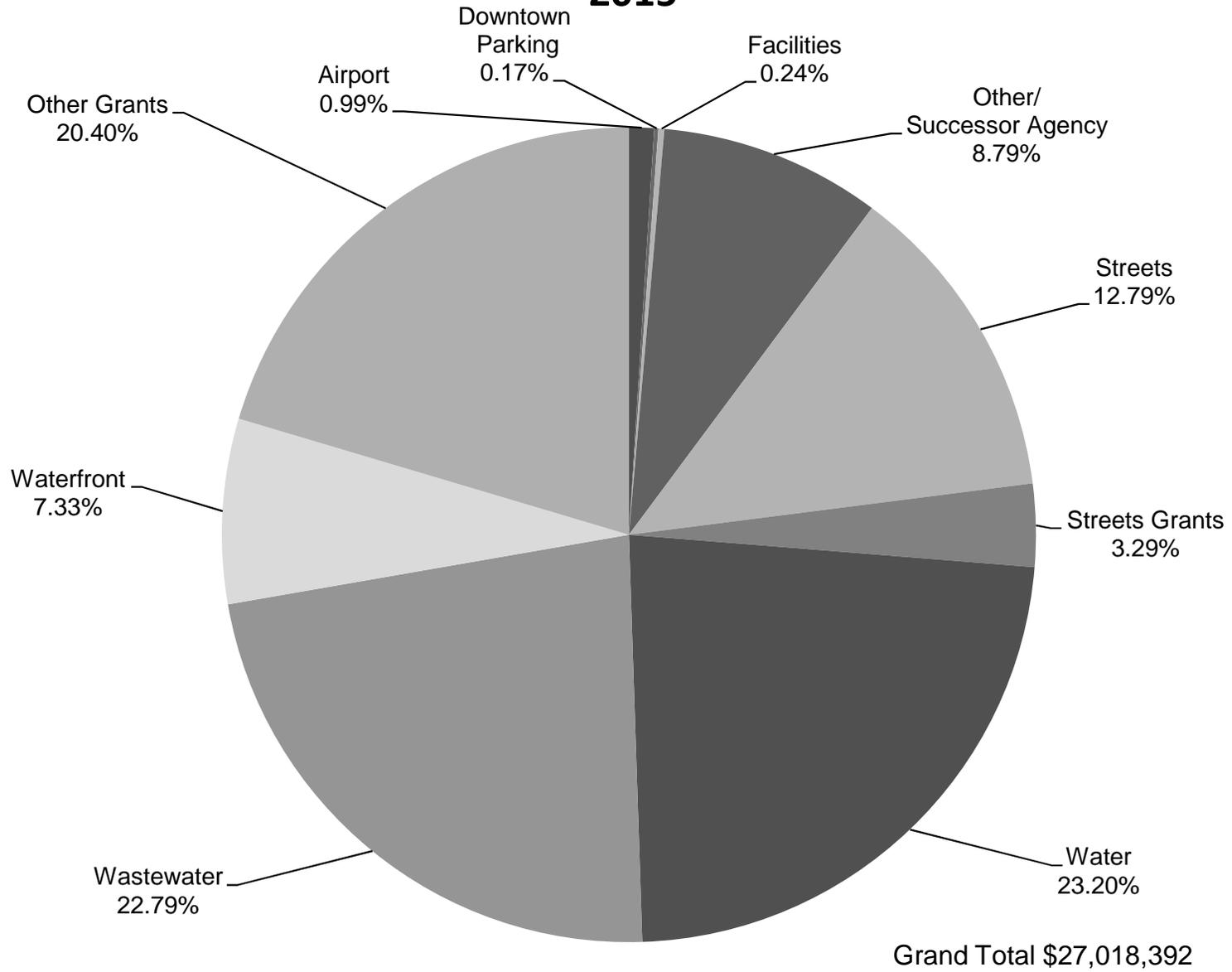
**FOURTH QUARTER**

PROJECT TITLE	FUNDING													TOTAL PROJECT COSTS	
	Fourth Quarter	Airport	Creeks	Downtown Parking	Parks	General Fund	Facilities	Other Successor Agency	Streets	Streets Grants	Water	Wastewater	Waterfront		Other Grants
Lower Sycamore Creek Channel Widening & Punta Gorda Street Bridge Replacement (1)								\$ 1,042,508						\$ 2,804,045	\$ 3,846,553
Moreton Bay Fig Tree Post & Chain Boundary								\$ 84,665							\$ 84,665
El Estero Digester High Performance Coating											\$ 432,900			\$ 432,900	
Zone 1 Slurry Seal			\$ 44,640					\$ 946,557					\$ 38,491	\$ 1,029,688	
Alameda Park Well Relocation-Well Drilling and Construction										\$ 1,308,148				\$ 1,308,148	
CCTV Inspections Fiscal Year 14											\$ 333,716			\$ 333,716	
														<b>Total Fourth Quarter</b>	<b>\$ 7,035,670</b>

(1) CDBG Disaster Recovery Program

	Airport	Creeks	Downtown Parking	Parks	General Fund	Facilities	Other/ Successor Agency	Streets	Streets Grants	Water	Wastewater	Waterfront	Other Grants	
<b>GRAND TOTAL</b>	<b>\$ 268,519</b>		<b>\$ 44,640</b>			<b>\$ 64,065</b>	<b>\$ 2,375,625</b>	<b>\$ 3,456,067</b>	<b>\$ 889,841</b>	<b>\$ 6,266,957</b>	<b>\$ 6,158,761</b>	<b>\$ 1,981,482</b>	<b>\$ 5,512,435</b>	<b>\$ 27,018,392</b>
<b>%</b>	<b>0.99%</b>		<b>0.17%</b>			<b>0.24%</b>	<b>8.79%</b>	<b>12.79%</b>	<b>3.29%</b>	<b>23.20%</b>	<b>22.79%</b>	<b>7.33%</b>	<b>20.40%</b>	<b>100.00%</b>

# Completed Capital Projects Funding For Fiscal Year 2015



## CAPITAL PROJECTS WITH DESIGN AND CONSTRUCTION IN PROGRESS

PROJECT CATEGORY	DESIGN IN PROGRESS	
	No. of Projects	Total Value of Projects
Airport	3	\$2,072,350
Parks and Recreation	1	\$9,100,000
Creeks	1	\$2,000,000
Public Works: Streets/Bridges	8	\$31,913,655
Public Works:Streets/Transportation	13	\$10,122,244
Public Works: Water/Wastewater	15	\$56,958,156
<b>TOTAL</b>	<b>41</b>	<b>\$112,166,405</b>

PROJECT CATEGORY	CONSTRUCTION IN PROGRESS	
	No. of Projects	Construction Contract Costs
Creeks	1	\$1,053,780
Facilities	1	\$1,200,231
Successor Agency to the Redevelopment Agency of the City of Santa Barbara	1	\$463,558
Public Works: Streets/Bridges	3	\$25,641,359
Public Works: Streets/Transportation	3	\$2,744,290
Public Works: Water/Wastewater	9	\$14,397,428
<b>TOTAL</b>	<b>18</b>	<b>\$45,500,646</b>



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 4, 2015

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Appeal Of Planning Commission Approval Of An Amended Coastal Development Permit For A New Pool At 3425 Sea Ledge Lane

### RECOMMENDATION:

That Council deny the appeal of Chris Krach-Bastian, and uphold the decision of the Planning Commission to approve an Amendment to a Coastal Development Permit for a new pool, spa, pool equipment and safety fencing at 3425 Sea Ledge Lane, making the findings and adopting the conditions specified in Planning Commission Resolution No. 011-15.

### EXECUTIVE SUMMARY:

On June 11, 2015, the Planning Commission approved an Amendment to a previously approved Coastal Development Permit to allow the construction of a new pool, spa, pool equipment and safety fencing at 3425 Sea Ledge Lane. Ms. Chris Krach-Bastian, adjacent neighbor of the project site, filed an appeal asserting that the slope below the subject property is unstable and a new pool is not appropriate for the project site. Staff believes that the Planning Commission adequately reviewed the geologic analysis for the proposed site and thoroughly reviewed the project for consistency with the Local Coastal Plan. Therefore, Staff's recommendation is to deny the appeal and uphold the Planning Commission's approval.

### DISCUSSION:

#### Project Description

The proposed project consists of the construction a new 450 square-foot pool, a 49 square-foot spa, associated pool equipment, deck, and safety fencing on a 17,490 square-foot lot in the Hillside Design District and the Appealable Jurisdiction of the Coastal Zone. The proposed scope of work resulted in the need for an Amendment to a Coastal Development Permit approved by the Planning Commission on May 2, 2013, and revised on August 8, 2014, which allowed for a remodel and two-story addition to an existing single-story residence on the lot.

### Background

May 2, 2013 - The Planning Commission approved a Coastal Development Permit for a remodel and addition to an existing one-story, single-family residence. The project consisted of one and two-story additions, a 449 square-foot basement, a new two-car garage and one-car carport, and a 1,200 square-foot "as-built" deck with above-ground spa.

July 1, 2013 - The Single Family Design Board (SFDB) granted Project Design Approval for the remodel and addition, making the Neighborhood Preservation Ordinance findings of Santa Barbara Municipal Code §22.69.050. The project returned to the Consent Calendar on July 29, 2013, and received Final Approval.

May 2014 - The SFDB reviewed and approved a revised project with an overall change in the style of architecture and several changes to the floor plan. These changes consisted of eliminating the basement, revisions to the floor plan and roof plan, relocating the garage to the west side of the house, eliminating the carport, and minor increases to the building footprint. Although there was a minor increase in first floor footprint, the revisions resulted in an overall reduction of net floor area. Staff found these revisions to be in substantial conformance with the original project approval.

August 13, 2014 - A building permit was issued for the remodel and second-story residential addition, resulting in an approximately 3,608 square-foot, two-story house with an attached 488 square-foot garage.

October 30, 2014 - An application for an Amendment to the Coastal Development Permit was submitted for the new pool, spa, pool equipment and required safety fencing.

November 17, 2014 - The proposed pool and spa were reviewed by the SFDB on the Consent Calendar and forwarded to the Planning Commission.

January 2015 - The application for an Amendment to the original CDP was received and through the Development Application Review Process, the application was deemed complete on May 12, 2015.

June 11, 2015 - The Planning Commission approved the Amendment to the Coastal Development Permit (Attachments 2 and 3 – PC Resolution and Minutes).

June 22, 2015 - An appeal of the Planning Commission's approval was filed by the adjacent neighbor, Chris Krach-Bastian, who resides at 3407 Sea Ledge Lane.

### Appeal Issues

The appellant is concerned with the stability of the bluff on which the property is located and cited previous landslides that have occurred in the area (Attachment 1 – Appellant's

Letter). The primary coastal issue that the Planning Commission considered in reviewing the Coastal Development Permit (CDP) Amendment was hazards related to seacliff retreat.

### **Sea Cliff and Bluff Stability**

The bluff top project site is a relatively level area situated between an uplifted terrace towards Cliff Drive to the north and a neighboring residence (3407 Sea Ledge Lane – the appellant's property) to the south. The house pad is supported by a concrete beam and caisson supported retaining wall near the top of the slope just south of the existing residence. The topography continues to slope down from the retaining wall to meet the house pad of the adjacent property to the south that is located on the coastal bluff.

The City's Local Coastal Plan states that new development on the top of a sea bluff shall be placed at such distance away from the edge of bluff that normal rates of erosion will not seriously affect structures during their expected lifetime, which is 75 years. A licensed geologist determines how much erosion is estimated to occur on the project site within the next 75 years using average annual rates of erosion and material loss. This policy is then implemented by locating new development outside of the delineated 75-year geological setback.

The Geologic Investigation prepared for the remodel and addition to the residence determined that the top of bluff for the subject parcel is in line with the aforementioned retaining wall located approximately 17 feet south of the house. The top of the natural coastal bluff is below the neighboring property to the south at 3407 Sea Ledge and is approximately 100 feet south of the subject retaining wall. There is also a rock revetment located on the beach, along the toe of the slope, below the neighboring house, which provides additional protection from wave-induced erosion.

Because there is a retaining wall on the project site and an existing residence below the subject site with the added benefit of a rock revetment, the rate of retreat due to wave attack and erosion for this particular property was determined to be zero inches per year. Based on observations of the site immediately to the west (which does not have a retaining wall) when the original CDP application was reviewed, the project geologist recommended a 15-foot setback from the existing retaining wall for habitable structures in order to provide an additional measure of safety.

For the subject CDP Amendment application, staff requested additional geologic analysis to address the addition of the pool and spa and their effect on the existing retaining wall. A new Geologic Investigation prepared by Adam Simmons, dated April 14, 2015, stated that the proposed pool will not impact the stability of the slope since the pool is to be placed behind the existing caisson-supported retaining wall (Attachment 4 – PC Staff Report).

The geologist recommended that the new pool be constructed with its own self-supporting caisson foundation and not be tied to the existing retaining wall or residence. The proposed structural design for the pool includes five drilled piles, including four for the pool

and one for the spa, and would extend below the depth of the existing caisson-supported retaining wall.

The geologic report also states that the weight of the water in the pool is roughly half the weight of the soil to be removed to install the pool and, therefore, construction of the proposed pool will not impact the existing retaining wall or stability of the slope and will not add excessive weight to the top of the bluff.

The project geologist also recommended installing a French drain system below the pool with an exit at a visible downslope location so that any potential pool seepage could be spotted and mitigated, and minimize saturation of the soil on the slope. This was incorporated as a condition of project approval.

### **Previous Landslides**

#### *3425 Sea Ledge Lane (Project Site)*

In 1998, a slope failure occurred on the project site. A site visit by the Building Inspector at that time revealed that soil and mud had given way and settled further down the slope on the same property. The remedy to this situation involved removal of three existing pipe and plank planter walls along the sloped portion of the property and construction of two retaining walls to protect the existing home on-site. The primary retaining wall was proposed to be 105 feet long with 20 to 40 foot deep caissons and tie backs. A secondary 85-foot long redwood retaining wall was to be placed downslope about 8 feet away from the longer retaining wall.

During that review process, geologic and engineering information was provided to staff and the Planning Commission to assess the proposed walls. Both an engineering geologist and soils engineer assessed the site and concurred that improper drainage allowed winter rainfall to saturate the fill soils comprising 4-5 feet of the surface material and was the most likely trigger for the slope failure. The two proposed retaining walls were not intended to stabilize the sea cliff from wave attack, but were engineered to stabilize the yard on the subject property and protect the existing residence from possible future damage resulting from erosion of the descending slope.

#### *3443 & 3443 Sea Ledge Lane*

In 2013, a slope failure occurred between the upper and lower portions of Sea Ledge Lane near the entrance from Cliff Drive. This slope failure was reportedly caused by repairs made to a utility pole adjacent to Sea Ledge Lane. The repairs consisted of installing a retaining wall system, including micro-piles and tiebacks, 67 feet long with a maximum height of 6 feet; drainage improvements that tie into the existing drainage system; and new landscaping with temporary irrigation for erosion control and visual screening of the new retaining wall. An emergency permit was issued to install the retaining wall due to concerns about the stability of the road, which serves as the only access for several homes, as well as being the only means of emergency access and egress. In April 2015,

the Staff Hearing Officer approved a Coastal Development Permit for the retaining wall and associated improvements, and all construction has been completed.

### **Drought**

The City is currently in a Stage Three Drought condition with mandatory water use regulations. The appellant states that because the city is currently experiencing a drought it does not make sense to construct a new pool on the bluff top. In May 2015, the City Council considered the option of suspending the issuance of building permits for new pools during the drought. Council decided not to restrict the construction of new pools because the amount of water that would be saved would not be considerable.

### **CONCLUSION:**

The proposed project has undergone a thorough review by the Planning Commission. The main issue is whether the geology of the project site and its improvements can appropriately accommodate a new pool. Staff believes that the Planning Commission fully considered this issue and reviewed the technical reports provided by the licensed geologist, making the findings for project approval. The Planning Commission considered the policies of the California Coastal Act and the Local Coastal Plan, and found that the project will not result in any adverse affects related to coastal resources, as the proposed pool is located out of the recommended 75-year seacliff retreat line, is appropriate for the site, and compatible with the surrounding neighborhood.

### **ATTACHMENT(S):**

1. Appellant Letter dated June 22, 2015
2. Planning Commission Resolution #011-15
3. Planning Commission Minutes dated June 11, 2015
4. Planning Commission Staff Report dated June 4, 2015

**PREPARED BY:** Kelly Brodison, Assistant Planner

**SUBMITTED BY:** George Buell, Community Development Director

**APPROVED BY:** City Administrator's Office

**Chris Krach-Bastian  
3407 Sea Ledge Lane  
Santa Barbara, CA 93109**

RECEIVED

2015 JUN 22 PM 2: 19

CITY OF SANTA BARBARA  
CITY CLERK'S OFFICE

June 22, 2015

Mayor Schneider  
Santa Barbara City Council  
735 Anacapa Street  
Santa Barbara, CA 93101

RE: Appeal of Habra Pool Proposal, 3425 Sea Ledge Lane

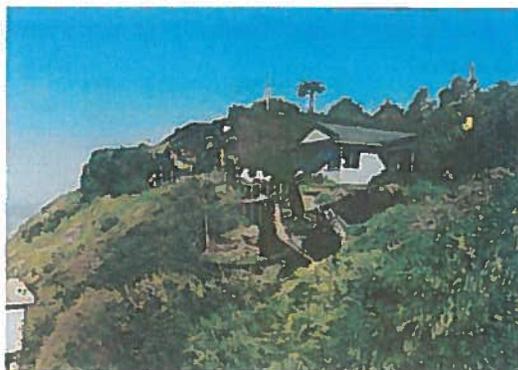
Dear Mayor Schneider and members of the City Council,

My name is Chris Krach-Bastian and I am appealing the June 11<sup>th</sup> Planning Commission approval of a CDP Amendment (CDP2012-00004) to allow a pool on the Habra property. I live directly below the Habra property on Sea Ledge Lane. I have some serious concerns about the pool being proposed on that property.

As you may know, Sea Ledge Lane has had many slides over the years. In 1973, my home lost two bedrooms and a bathroom when the hillside slid to the beach. I don't have any photos of that, or the previous slides in the area that my neighbors remember, but I have heard enough to know it wasn't the first slide.

The geologist hired by Mr. Habra states that he can recommend that the pool be allowed right up to the edge of the slope given that there has been "zero erosion in the past 48 years due to the presence of the existing retaining wall and rock revetment at the base of the slope."

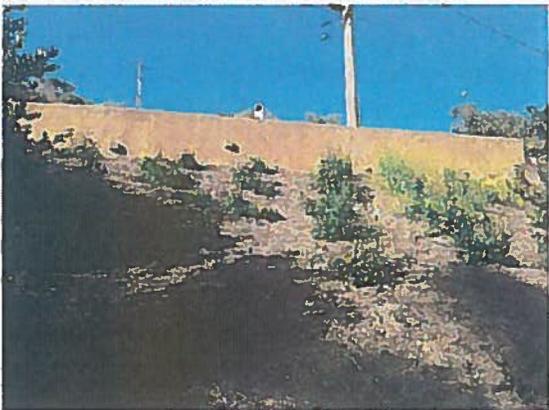
However, that statement is misleading at best. Below are pictures taken in the mid to late 90's when the Habra property slid down onto my property. The area of the slide shown on the picture to the left is essentially where the pool is now being proposed. The pile of wood to the right of the slide is the previous retaining wall. On the picture on the right you can see the corner of my home on the bottom left of the picture in relation to the slide and failed retaining wall. While I agree that the slide was not likely a result of erosion, clearly these hillsides are not stable, and putting a pool right at the edge of this slope seems like poor planning.



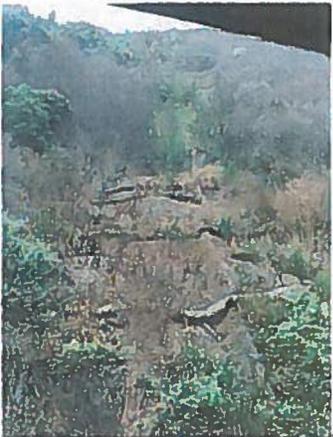
Below are pictures of a different slide, on the hillside just north of the Habra property. This was a substantial slide that came down onto the access and required major equipment to restore access over the road. For reference, the green area to the left of the pictures is the current location of Mr. Habra's home. I am not sure of the timing of this slide, but it was either at the same time or a year or two after the Habra property slide shown on the previous page.



In 2012, Edison replaced an electric pole and in the process hit a water line which caused a slow underground leak. In February 2013, the hillside slipped down onto Sea Ledge Lane. The hill was repaired by Edison, including an extensive retaining wall. This was also a major slide and repairs came in at around \$600,000.



Lastly, in January of this year a leak from a recently constructed pool on Sea Cliff resulted in a slide from Sea Cliff down to Cliff Drive



Aside from all of this, I know I don't need to remind you that we are in the middle of a Stage 3 Drought. I have set up my washing machine to capture all my gray water, which I use to water my plants. I also collect water in my two showers and my kitchen sink. And I know I am not the only one taking measures to reduce my water consumption as much as possible. With so many people doing what they can to save water in this drought, why would the city allow a new pool on property that is steps away from the ocean? I understand that the City recently debated whether to prohibit new pools as part of the Stage 3 Declaration (similar to what nearby jurisdictions have done) and decided not to. However, this is not just a pool, this is a pool right on the edge of a hillside, on a property with history of slides, in an area with a history of slides, on a property that is completely built out north to south and on a property that is steps from the ocean.

I know that a retaining wall was constructed in the area of the proposed pool after the slide shown on the first page, but my understanding is that it does not have tie-backs. I also understand that the pool will have its own caisson support structure in case the retaining wall fails, and I read that the design is being proposed to "reduce the potential for future pool leaks" as stated in Mr. Simmon's report. I don't know the details of that design, or how that design compares to what was allowed on the Sea Cliff property. What I do know is that pools fail, accidents happen and given the history of this area, it is not a question of if, but when the next slide happens. Who will be responsible if this plan fails? Mr. Habra? The geologist and engineer? The City?

Given all of this, I can't help but feel that this is a bad situation that can be easily avoided by exercising some common sense and good planning. I sincerely hope you feel the same.

Sincerely,

A handwritten signature in black ink that reads "Chris Krach-Bastian". The signature is written in a cursive, flowing style.

Chris Krach-Bastian  
3407 Sea Ledge Lane  
(949) 521-2025





# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 011-15

3425 SEA LEDGE LANE

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

JUNE 11 2015

**APPLICATION OF ALICIA HARRISON, AGENT FOR JACQUES HABRA, 3425 SEA LEDGE LANE, APN 047-083-012, A-1/SD-3 ZONES, LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL 1 DU/ACRE (MST2014-00537)**

The project consists of a proposal to construct a new 400 square-foot pool and spa with associated pool equipment and safety fencing on a 17,490 square-foot lot in the Hillside Design District. This proposal is an amendment to the recent Coastal Development Permit dated May 2, 2013, and revised on August 8, 2014, under MST2012-00135, which approved 2,508 square feet of one- and two-story additions, the demolition of the existing garage, and the conversion of 488 of existing habitable floor area into a new two-car garage.

The discretionary application required for this project is an Amendment to a Coastal Development Permit (CDP2012-00004) 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 Act Guidelines Section 15303, New Construction or Conversion of Small Structures, which allows for the construction of accessory structures including swimming pools.

**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 one person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 4, 2015.
2. Site Plans
3. Correspondence received in support of the project:
  - a. The Gerlachs, via email
  - b. Maria and Norman Bremer, via email
4. Correspondence received in opposition to the project:
  - a. Chris Krach-Bastian, via email
  - b. Leon and Joyce Lunt, via email and USPS

**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)**

The project is consistent with the policies of the California Coastal Act, with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines and all applicable provisions of the Municipal Code. Therefore, Staff recommends that the Planning Commission approve the Coastal Development Permit, subject to the Conditions of Approval in Exhibit A and make the following findings for the project.

1. The project is consistent with the policies of the California Coastal Act because it does not result in any adverse affects related to coastal resources, including views and public access, and the proposed addition is located outside of the 75-year seacliff retreat line as described in Section VI.A. 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 pool, spa deck and safety fencing is compatible with the surrounding bluff top neighborhood, will not impact views from public view corridors, will not impact public access, is not an archaeologically sensitive site, and addresses the potential for drainage hazards on the bluff as described in Section VI.A. 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. The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
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.

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 May 2, 2013, and revised on August 8, 2014, is limited to a remodel and addition to an existing single-family residence resulting in an approximately 3,608 square foot two-story residence and a 488 square foot garage, a new pool, spa, deck

and required safety fencing and the 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. **Development Restrictions.** Habitable structures are prohibited within the 15-foot “structural setback,” as noted on the plans and as recommended by Adam Simmons in the report titled “Seacliff Retreat Project – Addendum,” dated April 17, 2013. Improvements, including, new pool, spa, deck and required safety fencing, drought-tolerant landscaping and limited hardscape improvements, are allowed between the existing retaining wall and the 15-foot “structural setback,” as noted on the plans.
3. **Parking.** Add and maintain a “no parking” sign in the designated Fire Department turn-around area located between 3425 and 3407 Sea Ledge Lane.
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.
5. **Maintenance of Drainage System.** Owner shall be responsible for maintaining the drainage system in a functioning state. Should any of the project’s surface or subsurface drainage structures fail 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.
6. **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).
7. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
8. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. 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 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.

9. **Sewer Connection Requirement.** Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
  10. **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.
  11. **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.
  12. **Leakage:** Upon the observation of a leak from the french drain, the Property Owner shall conduct an investigation by appropriate professionals who will prepare a report for submitting to the Chief Building Official detailing the results of the investigation and recommending a response. If the investigation determines that a condition threatens the stability of the pool foundation or the retaining wall foundation, the pool shall be drained by truck until repairs have been affected and the stability of the foundation systems is confirmed by the Chief Building Official.
- 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. **Landscaping on Bluff Top Properties.** The Single Family Design Board (SFDB) shall review any new landscaping, irrigation and/or improvements to said landscaping north of

the top of bluff setback. Per the Geologic Investigation prepared by Adam Simmons, dated November 28, 2012, the existing deep rooted, drought tolerant plants should be maintained on the sloping areas of the property in order to minimize the potential for over-saturation and erosion. Thick and deep rooted plant varieties help to stabilize the slope and keep it in a state of under-saturation. The re-vegetation program (in areas where the existing vegetation is sparse or to be removed) should be implemented as soon as practical after the construction, if necessary. Minimize the planting of high water use plants (including lawn) within 20 feet of the slope south of the retaining wall. 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.

2. **Drainage.** Drainage improvements shall be shown on the Landscape Plan and Site Plan and shall be installed per the Drainage Analysis and Hydrology Report prepared by LaChaine & Associates, dated November 12, 2012, and the Bio-Retention Planter Box calculations, dated March 11, 2013, and the Geologic Investigation prepared by Adam Simmons, dated November 28, 2012, to include:
    - a. Installation of a 60 square foot bioretention planter box, to aid in removing sediment from storm water runoff generated by the subject property, at the eastern corner of the property between the rock bench and the driveway.
    - b. Installation of two new site drains/drop inlets to the east side of the house pad.
    - c. All runoff water from impervious areas such as roofs, patios, decks, French Drains (for basement) and driveways shall be captured and directed via an impervious conduit to an appropriate disposal area. No surface water or captured subsurface water shall be allowed to pass in an uncontrolled manner onto the surrounding slopes below. The collected water shall be transported to the base of slope via the existing non-perforated drainage pipes.
    - d. A French drain system will be placed below the proposed pool.
  3. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.
- 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. **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. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan for treatment, rate and volume. The Owner shall comply with the Drainage Analysis and Hydrology Report prepared by Lachaine & Associates, Inc., dated November 12, 2012, and the Bio-Retention Planter Box calculations prepared by Lachaine & Associates, Inc., dated March 11, 2013, as described in Condition C.2. The new development will comply with the City's Storm Water Management Plan. 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 significant 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.
  - c. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site. The Haul Routes shall be approved by the Transportation Manager.
  - d. **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. **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 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 C "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. 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 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:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
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. **Preliminary Geotechnical Investigation.** All recommendations in the Preliminary Geotechnical Investigation Report prepared by GSI Soils, Inc. dated June 20, 2012 shall be incorporated into the project plans and specifications.
2. **Geologic Investigation for pool and spa.** All recommendations in the Geologic Investigation Report prepared by Adam Simmons, April 14, 2015 shall be incorporated into the project plans and specifications.
3. **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, 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 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
4. **Construction Storage/Staging.** A minimum width of 16’ along the private Sea Ledge Lane shall remain clear and unobstructed for ingress/egress and emergency access during construction. The applicant shall provide 48 hour notice to adjacent neighbors if Sea Ledge Lane ever needs to be blocked for a temporary basis. 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 Transportation Manager with a Public Works permit. Said permit shall specify that workers are to park on the north side of Cliff Drive and be shuttled to Sea Ledge Lane.
5. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 p.m., excluding 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.

6. **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. All construction of the pool shall be done during the dry season, generally considered to be April through October.
  - c. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
  - d. 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.
  - e. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
  - f. 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.

- g. 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.
  - h. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
  - i. 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).
  - j. 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.
  - k. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
  - l. Diesel powered equipment should be replaced by electric equipment whenever feasible.
  - m. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
  - n. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
  - o. All construction equipment shall be maintained in tune per the manufacturer's specifications.
  - p. The engine size of construction equipment shall be the minimum practical size.
  - q. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.
7. **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.

- a. **Construction Monitoring.** Construction monitoring of the integrity of the existing retaining wall will be looked at during construction of the pool, post filling the pool, and six months after pool completion by a licensed geologist with the results submitted to the City.
- 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. **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. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.

4. **Site Maintenance.** The existing site/structure(s) shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.

5. **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.

A. **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.

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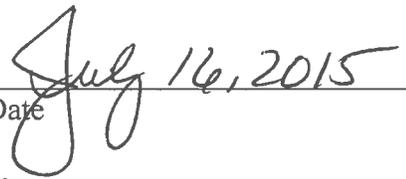
- 2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
- 3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) 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 11th day of June, 2015 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 1 (Schwartz) ABSTAIN: 0 ABSENT: 1 (Lodge)

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.**



# City of Santa Barbara

## Planning Division

### PLANNING COMMISSION MINUTES

June 11, 2015

#### **CALL TO ORDER:**

Chair Thompson called the meeting to order at 1:00 P.M.

#### **I. ROLL CALL**

Chair Addison Thompson, Vice-Chair John P. Campanella, Commissioners Jay D. Higgins, Mike Jordan, Sheila Lodge, June Pujo, and Deborah L. Schwartz.

**Commissioner Deborah Schwartz arrived at 1:02 P.M.**

#### **STAFF PRESENT:**

Beatriz Gularte, Senior Planner  
 N. Scott Vincent, Assistant City Attorney  
 Andrew Stuffer, Chief Building Official  
 Pat McElroy, Fire Department Chief  
 Lee Waldron, Fire Battalion Chief  
 Chris Mailes, Fire Department Training Captain  
 Tony Pighetti, Fire Captain  
 Steven Greer, Project Planner/Environmental Analyst  
 Bradley Klinzing, Public Works Project Planner  
 Kelly Brodison, Assistant Planner  
 Julie Rodriguez, Planning Commission Secretary

#### **II. PRELIMINARY MATTERS:**

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.  
None.
- B. Announcements and appeals.  
None.
- C. Comments from members of the public pertaining to items not on this agenda.  
Chair Thompson opened the public hearing at 1:00 P.M. and, with no one wishing to speak, closed the hearing.

### III. NEW ITEMS:

#### ACTUAL TIME: 1:00 P.M.

A. **APPLICATION OF BRAD KLINZING, APPLICANT FOR CITY OF SANTA BARBARA, 4 S. CALLE CESAR CHAVEZ, APN 017-113-023, OM-1 / SD-3 (OCEAN-ORIENTED LIGHT MANUFACTURING / COASTAL OVERLAY) ZONES, GENERAL PLAN DESIGNATION: INSTITUTIONAL, LOCAL COASTAL PLAN DESIGNATION: MAJOR PUBLIC AND INSTITUTIONAL (MST2014-00554)**

The project consists of the installation of two pre-fabricated steel structures totaling 1,170 square feet at the existing City Fire Training Facility, located on a two-acre parcel within the City's El Estero Wastewater Treatment Facility property. One structure would be a one-story, 240 square-foot structure with a maximum height of 8-½ feet, and the second structure would be a two-story, 930 square-foot structure with a maximum height of 17 feet. The structures would be utilized for fire observation and fire training purposes. The project also proposes on-site drainage improvements, consistent with the City's Tier 3 Storm Water Management Plan requirements. The project also includes the legalization of several "as-built" structures that were previously developed on site and total approximately 3,476 square feet.

The discretionary applications required for this project are:

1. A Development Plan to allow the construction of 4,646 square feet of nonresidential development (SBMC Chapter 28.85);
2. A Conditional Use Permit to allow the construction of 4,646 square feet of nonresidential development for use as a Fire Training Facility in the OM-1/SD-3 zone (SBMC §28.94.030(x)); and
3. A Coastal Development Permit (CDP2015-00006) 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 a Community Plan or Zoning.

Contact: Steven Greer, Project Planner

Email: [SGreer@SantaBarbaraCA.gov](mailto:SGreer@SantaBarbaraCA.gov)

Phone: (805) 564-5470, ext. 4558

Steven Greer, Project Planner, gave the Staff presentation, joined by Brad Klining, Public Works Project Engineer; Pat McElroy, Santa Barbara Fire Department Chief; Chris Mailes, Fire Training Captain; Tony Pighetti, Fire Captain; and Lee Waldron, Fire Battalion Chief.

Chair Thompson opened the public hearing at 1:30 P.M., and with no one wishing to speak, the public hearing was closed.

**MOTION: Jordon/Lodge**

**Assigned Resolution No. 010-15**

Approved the project, making the findings for the Development Plan, Conditional Use Permit, and Coastal Development Permit as outlined in the Staff Report, dated June 4, 2015, subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revisions to the Conditions of Approval:

1. Add a condition for Neighborhood Notification that the Fire Department will continue the current practice of notifying surrounding properties of when a training operation is occurring.
2. Add a condition that states that this is a Fire Training Facility available to the City Fire Department and other agencies at the Fire Chief's discretion.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Chair Thompson announced the ten calendar day appeal period.

**ACTUAL TIME: 1:56 P.M.**

**B. APPLICATION OF ALICIA HARRISON, AGENT FOR JACQUES HABRA, 3425 SEA LEDGE LANE, APN 047-083-012, A-1/SD-3 ZONES, LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL 1 DU/ACRE (MST2014-00537)**

The project consists of a proposal to construct a new 400 square-foot pool and spa with associated pool equipment and safety fencing on a 17,490 square-foot lot in the Hillside Design District. This proposal is an amendment to the recent Coastal Development Permit dated May 2, 2013, and revised on August 8, 2014, under MST2012-00135, which approved 2,508 square feet of one- and two-story additions, the demolition of the existing garage, and the conversion of 488 of existing habitable floor area into a new two-car garage.

The discretionary application required for this project is an Amendment to a Coastal Development Permit (CDP2012-00004) 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 Act Guidelines Section 15303, New Construction or Conversion of Small Structures, which allows for the construction of accessory structures including swimming pools.

Contact: Kelly Brodison, Assistant Planner

Email: [KBrodison@SantaBarbaraCA.gov](mailto:KBrodison@SantaBarbaraCA.gov)

Phone: (805) 564-5470, ext. 4531

Kelly Brodison, Assistant Planner, gave the Staff presentation. Andrew Stuffer, Chief Building Official was available to answer any of the Commission's questions.

Alicia Harrison, Agent, gave the Applicant presentation. The project team of Adam Simmons, Engineering Geologist; Tom Henson, Project Architect, Peter Becker Architect; Allen Cooper, Pool Contractor, Pintado Pools, were also available to answer any of the Commission's questions.

Commissioner Schwartz left the dais at 2:28 P.M. and returned at 2:31 P.M.

Chair Thompson opened the public hearing at 3:24 P.M.

Chris Krach-Bastian, adjacent neighbor below, submitted written comment expressing concern with the area's prior slides and the potential for future slides that could impact her home. She was also concerned with approving pool construction during the drought, and her recourse if her property were to be impacted by a future slide.

With no one else wishing to speak, the public hearing was closed at 3:28 P.M.

Commissioner Lodge had to leave the remainder of the hearing at 3:33 P.M. and stated she could support the spa, but not the pool.

Commissioner Higgins left the dais at 3:43 P.M. and returned at 3:46 P.M.

Commissioner Schwartz left the dais at 3:56 P.M. and returned at 3:58 P.M.

**MOTION: Jordon/Pujo**

**Assigned Resolution No. 011-15**

Approved the project, making the findings for the Amendment to the Coastal Development Permit, as outlined in the Staff Report dated June 4, 2015, subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revisions to the Conditions of Approval:

- a. Accept date revision to Condition E. 2. Geologic Investigation for pool and spa.
- b. Add to Section B, the Recorded Conditions Agreement, a condition on pool leakage that states upon the observation of a leak from the French drain, the Property Owner shall have an investigation conducted by an appropriate professional who will prepare a report to the Chief Building Official detailing the results of the investigation with a recommended response. If the investigation determines that a condition threatens the stability of the pool foundation or the retaining wall foundation, the pool shall be drained by truck until repairs have been affected and the stability of the foundation systems is confirmed by the Chief Building Official.
- c. Add Condition E. 7. Construction Monitoring, that states construction monitoring of the integrity of the existing retaining wall will be looked at

during construction, post filling the pool, and six months after pool completion by a licensed geologist with the results submitted to the City's Community Development Director.

- d. Add a Condition that the construction of the project is to be conducted and completed during the dry season, generally considered to be April through October.

This motion carried by the following vote:

Ayes: 5 Noes: 1 (Schwartz) Abstain: 0 Absent: 1 (Lodge)

Commissioner Schwartz could not support the motion.

Chair Thompson announced the ten calendar day appeal period.

#### **IV. ADMINISTRATIVE AGENDA**

##### **ACTUAL TIME: 4:18 P.M.**

#### **D. Committee and Liaison Reports**

1. Staff Hearing Officer Liaison Report
  - a. Commissioner Jordan reported on the Staff Hearing Officer meeting of June 10, 2015.
2. Other Committee and Liaison Reports
  - a. Commissioner Schwartz reported on the Water Commission Hearing of June 8, 2015.
  - b. Commissioner Campanella reported on the Downtown Parking Committee meeting of June 11, 2015.

#### **V. ADJOURNMENT**

Chair Thompson adjourned the meeting at 4:28 P.M.

Submitted by,

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Julie Rodriguez, Planning Commission Secretary



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** June 4, 2015  
**AGENDA DATE:** June 11, 2015  
**PROJECT ADDRESS:** 3425 Sea Ledge Lane (MST201400537)  
**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470, extension 4531  
Beatriz Gularte, Senior Planner *BEG*  
Kelly Brodison, Assistant Planner *KAB*

### I. PROJECT DESCRIPTION

The project consists of a proposal to amend an existing Coastal Development Permit, which is presently under construction, in order to propose the addition of a new 450 square-foot pool, a 49 square-foot spa, associated pool equipment, deck and safety fencing on a 17,490 square-foot lot in the Hillside Design District and the Appealable Jurisdiction of the Coastal Zone. This proposal is an amendment to the recent Coastal Development Permit approved May 2, 2013 and revised on August 8, 2014, which approved a remodel and second-story addition to an existing single-story house resulting in an approximately 3,608 square foot two-story house with an attached 488 square-foot garage.

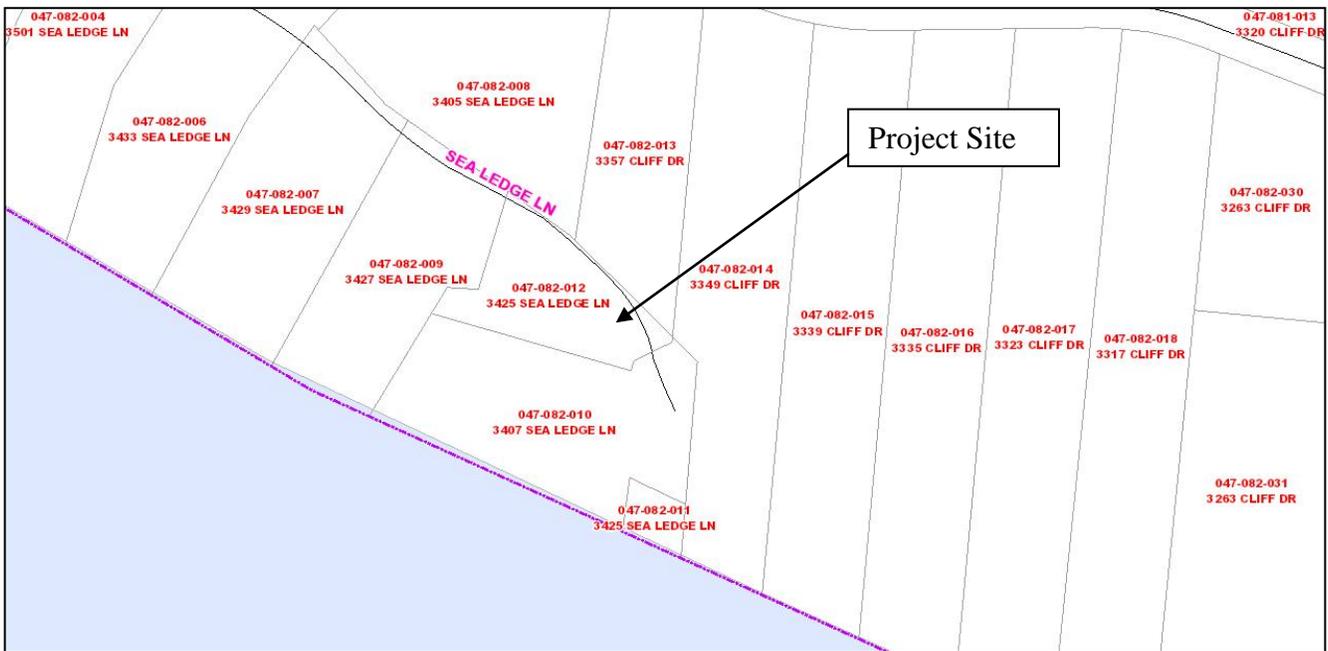
### II. REQUIRED APPLICATIONS

The discretionary application required for this project is an amended Coastal Development Permit (CDP2012-00004) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44).

**APPLICATION DEEMED COMPLETE:** May 13, 2015  
**DATE ACTION REQUIRED:** July 12, 2015

### III. RECOMMENDATION

The project, as proposed by the applicant, can be found to conform to the City's Zoning and Building Ordinances and policies of the General Plan and Local Coastal Plan. In addition, the size and location of the new pool has been reviewed by the Single Family Design Board and were found to be consistent with the surrounding neighborhood. Therefore, Staff recommends that the Planning Commission approve the project, making the findings outlined in Section IX of this report, and subject to the conditions of approval in Exhibit A.



3425 Sea Ledge Lane Vicinity Map

**IV. SITE INFORMATION AND PROJECT STATISTICS**

**A. SITE INFORMATION**

<b>Applicant:</b>	Alicia Harrison		
<b>Property Owner:</b>	Jacques Habra		
<b>Site Information</b>			
<b>Parcel Number:</b>	047-082-012	<b>Lot Area:</b>	17,490 sq. ft.
<b>General Plan:</b>	Hillside - Low Density Residential (Max 1 du/acre)	<b>Zoning:</b>	A-1/SD-3, Single-Family Residence and Coastal Overlay Zone
<b>LCP Land Use:</b>	Residential (1 du /acre)	<b>Topography :</b>	~19%
<b>Adjacent Land Uses</b>			
<b>North</b> – Sea Ledge Lane		<b>East</b> – Single-Family Residential	
<b>South</b> – Pacific Ocean		<b>West</b> – Single-Family Residential	

## V. **BACKGROUND**

On May 2, 2013, the Planning Commission approved a Coastal Development for the remodel and second-story addition to an existing one-story, 1,589 square foot, single-family residence with detached garage. The project consisted of 1,566 square feet of one and two-story additions, a 449 square-foot basement; demolition of the existing garage to be replaced with a 451 square foot, two-car garage, a 220 square foot, one-car carport, and a 1,211 square-foot "as-built" deck with above-ground spa.

In August 2014, a Level 2 Substantial Conformance Determination was approved, which included eliminating the basement, revising the floor plan and roof plan, relocating the driveway to the west side of the house, and minor increases to the building footprint. The revised project resulted in an approximately 3,608 square-foot, two-story residence with an attached 488 square-foot two-car garage. Although there was a minor increase in first floor footprint, the Substantial Conformance Determination resulted in an overall reduction of net floor area.

Both of the above plans received approval from the Single Family Design Board.

## VI. **POLICY AND ZONING CONSISTENCY ANALYSIS**

The proposed pool, spa, deck and fence, would meet the requirements of the A-1/SD-3 zones related to building height, solar access, open yard requirements and parking, and remain legally nonconforming to the interior setback requirement along the west property line.

### A. **COMPLIANCE WITH THE LOCAL COASTAL PLAN**

An LCP amendment has not been approved for the recently updated General Plan. Therefore, the previous General Plan Land Use Designation acts as the Local Coastal Plan Land Use Designation. This project site has a Land Use Designation of Residential (1 du /acre). The site is located in the Campanil neighborhood that is bordered on the north by Arroyo Burro Creek; on the south by the Pacific Ocean; on the east by the City limits line; and on the west by Hope Ranch. This neighborhood is characterized as large parcels which are either vacant or contain single-family dwellings.

Because the site is located within fifty feet of the edge of a coastal bluff in the Appealable Jurisdiction of the Coastal Zone, a Coastal Development Permit (CDP) was required for the recent remodel and addition to the existing single family residence on the lot. The applicant is now requesting an Amendment to that Coastal Development Permit to construct the pool. In order to approve the CDP Amendment, the new pool must be found consistent with both the City's Local Coastal Plan and the California Coastal Act. The proposed project would be consistent with the pattern single-family residential development in the area.

The project is located in Component One of the City's Local Coastal Plan (LCP) which stretches from the city's westerly boundary, adjacent to Hope Ranch, east to Arroyo Burro Creek, and extending inland 1,000 yards.

The major coastal issues in this area that are applicable to this project include hazards of seacliff retreat, drainage, maintaining and providing public access both vertically and laterally along the bluffs, maintenance of existing public views of the coast and open space, protection of archaeological resources and neighborhood compatibility. The project's consistency with these LCP Policies is described below. The site does not serve as a public facility, recreation area, or public coastal access point. The pool and fence will not inhibit public views because the project site is not visible from any public viewing areas and cannot be seen from Cliff Drive, which is the nearest public street. Also, there are no issues with unstable soils, high groundwater, seismic safety, flooding or fire.

Although the General Plan is not the standard of review in this case, it provides additional guidance. The City's General Plan - Safety Element includes policies relative to coastal bluff development including the requirement for a site specific investigation, appropriate structural setbacks to address the potential for long term erosion and bluff drainage. These policies are attached for reference as Exhibit E.

For these reasons, the project can be found consistent with the applicable policies of the California Coastal Act, the Local Coastal Plan, and all implementing guidelines.

## **1. HAZARDS**

The General and Local Coastal Plans strive to eliminate or reduce the hazards created by bluff loading and drainage related issues, which contribute to bluff erosion and undercutting of the slope.

### Seacliff Retreat

The project site is a relatively level area situated between an uplifted terrace towards Cliff Drive to the north and a neighboring residence (3407 Sea Ledge Lane) to the south. The house pad is supported by a concrete beam and retaining wall near the top of the slope just south of the existing residence. The topography continues to slope down from the retaining wall with dense vegetative cover to meet the house pad of the adjacent property to the south that is located on the coastal bluff.

The Local Coastal Plan states that new development on the top of a sea bluff shall be placed at such distance away from the edge of bluff that normal rates of erosion will not seriously affect the structure during its expected lifetime. This policy is implemented by locating new development outside the 75-year geological setback to protect bluffs from erosion and maintain the natural topography of the bluffs. The 75-year geological setback is determined by an engineering geologist based on an average annual rate of erosion and material loss.

As stated above, Coastal Development Permit was approved for a remodel and two-story addition on May 2, 2013. The Geologic Investigation prepared for that development determined that the top of bluff as it pertains to this site is in line with the aforementioned retaining wall located approximately 17' south of the proposed house. The top of the natural coastal bluff is actually approximately 100 feet south (downslope of the existing residence) of the site retaining wall below where the southerly neighbor's residence and driveway are located. There is also a rock revetment located

along the toe of the slope, below that neighboring house which provides additional protection from wave-induced erosion.

Because there is a retaining wall on-site, and an existing residence below the subject site with the added benefit of a rock revetment, the rate of retreat due to wave attack and erosion for this particular property is zero inches per year. Based on observations of the site immediately to the west (which does not have a retaining wall), when the original CDP application was reviewed the geologist recommended a 15 foot setback from the existing retaining wall for habitable structures in order to provide an additional measure of safety.

The applicant is now requesting a CDP Amendment for a new pool, spa, associated pool equipment, deck and fencing. Staff requested additional analysis to address the addition of the pool and spa and their effect on the existing retaining wall. A Geologic Investigation prepared by Adam Simmons, dated April 14, 2015, stated that the proposed pool will not impact the stability of the slope since the pool is to be placed behind an existing caisson supported retaining wall.

The geologist recommends that the new pool be constructed with its own self supporting caisson foundation design and not tied to the existing retaining wall or proposed addition. The proposed structural design for the pool includes five drilled piles, including four for the pool and one for the spa. The caissons should extend below the depth of the existing caisson supported retaining wall. The use of tiebacks along the northern perimeter of the foundation should be considered. The caissons for the southern perimeter of the pool should be spaced appropriately to create independent support for each pile. This spacing should reduce any potential for foundation interference between the two structures and provide additional lateral strength of the deeper underlying earth material supported behind the caissons yet below the grade beams.

The proposed pool deck may extend to the top of the existing retaining wall using a cantilevered support, without connecting the structures. The report states that the weight of the water in the pool is roughly half the weight of the soil to be removed to install the pool and, therefore, construction of the proposed pool will not impact the existing retaining wall or stability of the slope since the weight of material to be retained behind the existing caisson supported retaining wall is being reduced and will not add excessive weight to the top of the bluff which is consistent with Policy S27 of the Safety Element of the General Plan.

The geologist also recommends installing a French drain system below the proposed pool. The French drain should exit at a visible downslope location so that any potential future pool seepage could be spotted and mitigated so as to minimize the saturation of the soil on the slope.

## Drainage

LCP Policy 8.1 as well as Policy S26 of the Safety Element, require all new bluff top development to have drainage systems that carry runoff away from the bluff to the nearest public street. Because of the site topography described above, runoff cannot be directed to the nearest public street, which is Cliff Drive to the north. In these types of situations, private bluff drainage systems are permitted if the following is accomplished:

- 1) The system is sized to accommodate run-off from all similarly drained parcels bordering the subject parcel's property lines;
- 2) The owner of the subject property allows for the permanent drainage of those parcels through his/her property; and
- 3) The drainage system is designed to be minimally visible on the bluff face.

There were no changes to property drainage as approved as part of the CDP for the single family residence. All storm water runoff from the site eventually reaches two (2) existing 6 inch outlet pipe drains in the parking/turnaround area to the southeast of the property. All drainage is captured and routed to the inlets so that no drainage will be allowed to run over the slope.

As part of the original Coastal Development Permit, a Drainage Analysis/Hydrology Report was prepared by LaChaine & Associates, Inc., dated November 12, 2012, with an addendum dated March 11, 2013, (available under separate cover) that described the existing drainage system on site. The existing system collects water from the existing development and two off-site runoff sources (the asphalt driveway and the slope north of the property) and is conveyed along the northern shoulder to the parking/turnaround area southeast of the site where two (2) six inch corrugated plastic pipes carry the water down to the beach.

Per the Drainage Report prepared by La Chaine and Associates and dated November 12, 2012, the two pipes have the capacity to convey the residence level runoff from the site drainage and the greater watershed that feeds them. The report also concludes that no increase in runoff would result from the residence nor would the residence cause runoff volumes to increase beyond the capacity of the two outlets.

The originally approved project design included two site drains/drop inlets along with a bio retention planter box located in the eastern corner of the property to accommodate the increase in building footprint. These improvements along with the additional landscape planters around the house will result in a 260 square-foot net loss of impermeable surface on the property. The above-mentioned Hydrology Report is applicable to the proposed pool, spa, and associated pool equipment because the pool is a small portion of area and it will benefit the permeability of the site by capturing rainfall and slightly reducing site runoff.

For the proposed project, La Chaine determined that the pool does not change their conclusion and actually benefits the property by adding a minor component of capturing rainfall and slightly lessening site runoff.

The new French drain is located beneath the pool. The sole purpose of this French drain is for detection of a pool leak if the pool were to fail. The outfall of this French drain needs to be visible so that the leak can be detected. The outfall is located at a point distant from the pool so that it can be gravity fed, and this outfall is located on the property. Any potential overflow at this point would flow to the asphalt road and storm drain to the beach consistent with existing conditions. Overflow from this point is only anticipated in the case of a pool leak which would be addressed and repaired as soon as the overflow was apparent.

#### Water Quality

As part of the original Coastal Development Permit, the applicant is also constructing a 60 square-foot bio retention planter box to assist in removing sediment from storm water runoff before flowing to the beach. Six small landscaped areas around the home are being provided to create natural treatment/filtration of site runoff. These improvements remain sufficient for the new pool.

### **VII. ENVIRONMENTAL REVIEW**

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303, New Construction or Conversion of Small Structures, which allows for the construction of accessory structures including swimming pools.

### **VIII. DESIGN REVIEW**

The proposed pool was reviewed by the Single Family Design Board on the Consent Calendar on November 17, 2015. The project was found to be aesthetically appropriate and forwarded it on to the Planning Commission. The applicant was asked to provide additional information when the project returns for a Final Approval including details on the landscaping treatment around the pool equipment area, details on the fencing, and any lighting associated with the pool.

### **IX. FINDINGS**

The Planning Commission finds the following:

#### **A. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

The project is consistent with the policies of the California Coastal Act, with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines and all applicable provisions of the Municipal Code. Therefore, Staff recommends that the Planning Commission approve the Coastal Development Permit, subject to the Conditions of Approval in Exhibit A and make the following findings for the project.

1. The project is consistent with the policies of the California Coastal Act because it does not result in any adverse affects related to coastal resources, including views and public access, and the proposed addition is located outside of the 75-year seacliff retreat line as described in Section VI.A. 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 pool, spa deck and safety fencing is compatible with the surrounding bluff top neighborhood, will not impact views from public view corridors, will not impact public access, is not an archaeologically sensitive site, and addresses the potential for drainage hazards on the bluff as described in Section VI.A. of the Staff Report.

Exhibits:

- A. Amended Conditions of Approval
- B. Site Plan
- C. Applicant's letter, dated April 15, 2015
- D. Single Family Design Board Minutes
- E. Applicable Local Coastal Plan and General Plan Policies
- F. Geologic Investigation prepared by Adam Simmons dated April 14, 2015
- G. PC Resolution 008-13

**PLANNING COMMISSION CONDITIONS OF APPROVAL**

3425 SEA LEDGE LANE  
COASTAL DEVELOPMENT PERMIT  
MAY 2, 2013  
AMENDED JUNE 11, 2013

I. In consideration of the project approval granted by the Planning Commission 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. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee. The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
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.

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 May 2, 2013, and revised on August 8, 2014, -is limited to a remodel and addition to an existing single-family residence resulting in an approximately a 4,2753,608 square foot two-story residence including and a a 449 square foot basement, a 451-488 square foot garage, a 220 square foot carport and a 1,211 square foot "as built" deck with above ground spa, a new pool, spa, deck and required safety fencing and the improvements shown on the plans signed by the

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3425 SEA LEDGE LANE  
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chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

2. **Development Restrictions.** Habitable structures are prohibited within the 15-foot “structural setback,” as noted on the plans and as recommended by Adam Simmons in the report titled “Seacliff Retreat Project – Addendum,” dated April 17, 2013. ~~Minor improvements, including, “as built” above ground spa (set back the recommended 6.25 feet from the top of the retaining wall),~~ new pool, spa, deck and required safety fencing, drought-tolerant landscaping and limited hardscape improvements, are allowed between the existing retaining wall and the 15-foot “structural setback,” as noted on the plans.
3. **Parking.** Add and maintain a “no parking” sign in the designated Fire Department turn-around area located between 3425 and 3407 Sea Ledge Lane.
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.
5. **Maintenance of Drainage System.** Owner shall be responsible for maintaining the drainage system in a functioning state. Should any of the project’s surface or subsurface drainage structures fail 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.
6. **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).
7. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
8. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. 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

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3425 SEA LEDGE LANE  
MAY 2, 2013  
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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 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.

9. **Sewer Connection Requirement.** Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
10. **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.
11. **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.

PLANNING COMMISSION CONDITIONS OF APPROVAL  
3425 SEA LEDGE LANE  
MAY 2, 2013  
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- 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. **Landscaping on Bluff Top Properties.** The Single Family Design Board (SFDB) shall review any new landscaping, irrigation and/or improvements to said landscaping north of the top of bluff setback. Per the Geologic Investigation prepared by Adam Simmons, dated November 28, 2012, the existing deep rooted, drought tolerant plants should be maintained on the sloping areas of the property in order to minimize the potential for over-saturation and erosion. Thick and deep rooted plant varieties help to stabilize the slope and keep it in a state of under-saturation. The re-vegetation program (in areas where the existing vegetation is sparse or to be removed) should be implemented as soon as practical after the construction, if necessary. Minimize the planting of high water use plants (including lawn) within 20 feet of the slope south of the retaining wall. 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.
  2. **Drainage.** Drainage improvements shall be shown on the Landscape Plan and Site Plan and shall be installed per the Drainage Analysis and Hydrology Report prepared by LaChaine & Associates, dated November 12, 2012, and the Bio-Retention Planter Box calculations, dated March 11, 2013, and the Geologic Investigation prepared by Adam Simmons, dated November 28, 2012, to include:
    - Installation of a 60 square foot bioretention planter box, to aid in removing sediment from storm water runoff generated by the subject property, at the eastern corner of the property between the rock bench and the driveway.
    - Installation of two new site drains/drop inlets to the east side of the house pad.
    - All runoff water from impervious areas such as roofs, patios, decks, French Drains (for basement) and driveways shall be captured and directed via an impervious conduit to an appropriate disposal area. No surface water or captured subsurface water shall be allowed to pass in an uncontrolled manner onto the surrounding slopes below. The collected water shall be transported to the base of slope via the existing non-perforated drainage pipes.
    - A French drain system will be placed below the proposed pool.
  3. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.

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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. **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. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan for treatment, rate and volume. The Owner shall comply with the Drainage Analysis and Hydrology Report prepared by Lachaine & Associates, Inc., dated November 12, 2012, and the Bio-Retention Planter Box calculations prepared by Lachaine & Associates, Inc., dated March 11, 2013, as described in Condition C.2. The new development will comply with the City's Storm Water Management Plan. 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 significant 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.
- c. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site. The Haul Routes shall be approved by the Transportation Manager.
- d. **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. **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 permits.

PLANNING COMMISSION CONDITIONS OF APPROVAL  
 3425 SEA LEDGE LANE  
 MAY 2, 2013  
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- 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 C “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. 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 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:

		Date
Property Owner		
		License No.
Contractor	Date	
		License No.
Architect	Date	
		License No.
Engineer	Date	

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. **Preliminary Geotechnical Investigation.** All recommendations in the Preliminary Geotechnical Investigation Report prepared by GSI Soils, Inc. dated June 20, 2012 shall be incorporated into the project plans and specifications.
- ~~1.2.~~ **Geologic Investigation for pool and spa.** All recommendations in the Geologic Investigation Report prepared by Adam Simmons, dated October 19, 2014, and April 14, 2015 shall be incorporated into the project plans and specifications.
- ~~2.3.~~ **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, 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 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

PLANNING COMMISSION CONDITIONS OF APPROVAL  
3425 SEA LEDGE LANE  
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- 3.4. **Construction Storage/Staging.** A minimum width of 16' along the private Sea Ledge Lane shall remain clear and unobstructed for ingress/egress and emergency access during construction. The applicant shall provide 48 hour notice to adjacent neighbors if Sea Ledge Lane ever needs to be blocked for a temporary basis. 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 Transportation Manager with a Public Works permit. Said permit shall specify that workers are to park on the north side of Cliff Drive and be shuttled to Sea Ledge Lane.
- 4.5. **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 shall be installed at all access points to prevent tracking of mud onto public roads.
  - 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.

PLANNING COMMISSION CONDITIONS OF APPROVAL  
 3425 SEA LEDGE LANE  
 MAY 2, 2013  
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- 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.
- j. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
- o. The engine size of construction equipment shall be the minimum practical size.
- p. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

5-6. **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

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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. **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.

PLANNING COMMISSION CONDITIONS OF APPROVAL  
3425 SEA LEDGE LANE  
MAY 2, 2013  
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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. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
4. **Site Maintenance.** The existing site/structure(s) shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.
5. **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.

PLANNING COMMISSION CONDITIONS OF APPROVAL  
3425 SEA LEDGE LANE  
MAY 2, 2013  
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**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.





**Brownstein Hyatt  
Farber Schreck**

April 15, 2015

Alicia Harrison, AICP  
Land Use Planner  
805.882.1442 tel  
805.965.4333 fax  
AHarrison@bhfs.com

**VIA HAND DELIVERY**

Planning Commission  
City of Santa Barbara  
630 Garden Street  
Santa Barbara, CA 93101

RE MST2014-00537  
Habra Request for Amendment to Coastal Development Permit MST2012-00135 for New Pool,  
Spa, Deck and Pool Equipment  
3425 Sea Ledge Lane  
APN 047-083-012

Dear Planning Commissioners:

On behalf of Jacques Habra, owner of property located at 3425 Sea Ledge Lane, we are requesting approval of an amendment to existing Coastal Development Permit (CDP) MST2012-00135 for a new pool, spa, deck and pool equipment.

The property is located at the east end of Sea Ledge Lane, a private road serving a limited number of residences. The CDP mentioned above was approved on May 2, 2013 and revised on August 8, 2014, and allows for a 3,608 square foot residence and a 488 square foot garage. These improvements are currently under construction. As an amendment to the CDP the owner wants to construct a new 10 x 35 pool, a new 7 x 7 spa and pool equipment serving both the pool and spa. The owner also proposes to replace an existing deck of 1,130 square feet and extend the deck by 131 square feet. The decks would be wood, IPE or other material. The only grading required for the project is for excavation of the pool and spa.

The pool equipment is proposed to be located along the eastern edge of the pool area so that it is not in proximity to any neighboring residences. It will be screened via landscaping to dampen or eliminate any potential ambient noise.

The pool and spa add 496 square feet of impervious surfaces to the property. Per a review/update email from La Chaine & Associates, Inc. dated January 12, 2015, this minimal addition of impervious surface does not change the conclusions of their report and actually benefits drainage on the property by adding a minor component of capturing rainfall and slightly lessening site runoff. As such, all drainage systems already approved in the CDP will remain and will not be modified except as necessary to tie in the pool cover box/cover drain which captures potential pool overflow and directs it to the existing site drain system. One additional drainage recommendation is made by the Engineering Geologist in his April 14, 2015 report which includes a French drain system below the pool. The sole purpose of this French drain is for detection of a pool leak in the unlikely event that the redundant pool shell was to fail. The French drain is designed to gravity feed to a visible location on the property so that any leakage due to such failure could be spotted and mitigated immediately.

1020 State Street  
Santa Barbara, CA 93101-2711  
main 805.963.7000

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The pool and spa improvements will be adjacent to an existing retaining wall located at the top of the bluff. Per the Engineering Geologist's April 14, 2015 letter, there has been zero measured erosion over the last 46 years due to the presence of this existing wall, therefore a setback from the current existing top of the bluff has been determined to be zero feet. The Engineering Geologist recommends a conservative residential structural setback from the wall of 15 feet for house additions, but he specifies that this does not pertain to the pool. The pool deck may extend to the existing wall due to the pool being on a self-supporting caisson and grade beam foundation that is independent from the support system for the retaining wall.

The structural foundation for the pool includes five drilled piles, four for the pool and one for the spa. The piles are 30 inches in diameter, 40 feet in depth and spaced appropriately so as to create independent support for each pile. Water within the proposed pool is roughly half the weight of the soil to be removed to install the pool. Therefore construction of the pool will not impact the existing wall since (1) the weight of material to be retained behind the existing caisson supported retaining wall is being reduced and will not add excessive weight to the top of bluff, (2) any weight of the pool structure will be supported by the proposed independent foundation system including self-supporting caissons. The Engineering Geologist concludes that the new caissons will not interfere with the integrity or functionality of the existing caissons and therefore will not impact stability of the coastal bluff, and if accelerated erosion were to undermine the pool, which he feels is unlikely given the existing wall, existing residence located below the subject property and the zero measured erosion rate noted above, he does not feel there would be safety concerns since both structures have independent caisson foundation support.

Pool safety fencing is proposed along the eastern portion of the residential site between the residence and the bluff, including a short extension of fence on the slope to ensure no access around the fence at the top of the slope. The western portion of the residential site is already fenced. Pool safety fencing located on the ocean side of the proposed pool is not necessary or required due to the very steep slopes (over 80%) and existing terrain that make access to the pool from the bluff portion of the site infeasible. Fencing will be a minimum 5 foot high black vinyl coated chain link screened with *laurus nobilis* (sweet baby) hedge.

The area of the new pool and spa is currently approved for dimondia and decomposed granite (dg). With the new pool in place, the remaining landscape areas will be the same materials – dimondia and dg – as shown on the proposed landscape plan. Two new podocarpus gracillior trees are proposed along the west side of the rear yard to provide screening. No vegetation on the bluff side will be removed. Per a November 8, 2012 report by the Engineering Geologist, the existing deep rooted, drought tolerant plants help to stabilize the slope and should be maintained on the sloping areas of the property in order to minimize the potential for over-saturation and erosion.

The pool will include three (3) lights in the pool and one (1) light in the spa. Each of the lights is proposed to be 15 watt white LED. All other exterior lighting was approved as part of the house addition CDP.

The property is on City water and private septic. The pool is intended to be filled by an outside vendor, not City water. When necessary for the pool to be drained, it will be done by a pumper truck and removed from the property to an approved disposal site. No water from the pool will be dispersed onto the coastal bluff.

Pool construction is anticipated to last about 60 days. Pool construction method is anticipated to be shotcrete. Construction staging will be in the driveway area which is already disturbed due to current construction activity.

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April 15, 2015  
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We hope this submittal adequately provides all project information needed for your review and approval.  
Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alicia Harrison', with a long horizontal flourish extending to the right.

Alicia Harrison, AICP

015140\0001\12250512.1



**3425 Sea Ledge Lane**  
**Single Family Design Board Minutes**  
**Consent Calendar**

November 17, 2014

Public Comment: Joyce and Leon Lunt, adjacent neighbors at 3487 Sea Ledge Ln, submitted a letter expressing concerns about installing a pool during a drought and an allegedly over-height hedge in between the two properties.

Continued indefinitely to Planning Commission to return to Consent with the following comments:

- 1) The Board finds the pool aesthetically appropriate.
- 2) Show the enclosure or landscaping treatment around the pool equipment.
- 3) Provide a detail of the chain link fence.
- 4) Show any lighting associated with the pool.



## LOCAL COASTAL PLAN POLICIES

### GENERAL POLICIES

**Policy 1.1** The City adopts the policies of the Coastal Act (Public Resources Code Sections 30210 through 30263) as the guiding policies of the land use plan.

**Policy 1.2** Where policies within the land use plan overlap, the policy which is the most protective of the resources, i.e. water, air, etc. shall take precedence.

**Policy 1.3** Where there are conflicts between the policies set forth in the land use plan and those set forth in any other element of the City's existing General Plan or existing regulations, the policies of the land use plan take precedence.

### HOUSING POLICIES

**Policy 5.3** New development in and/or adjacent to existing residential neighborhoods must be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood. New development which would result in an overburdening of public circulation and/or on-street parking resources of existing residential neighborhoods shall not be permitted.

#### Action

Projects in the coastal zone will be reviewed by the Architectural Board of Review or Historic Landmarks Commission in accordance with the established rules and procedures.

### HAZARDS POLICIES

**Policy 8.1** All new development of bluff top land shall be required to have drainage systems carrying run-off away from the bluff to the nearest public street or, in areas where the landform makes landward conveyance of drainage impossible, and where additional fill or grading is inappropriate or cannot accomplish landward drainage, private bluff drainage systems are permitted if they are:

- (1) sized to accommodate run-off from all similarly drained parcels bordering the subject parcel's property lines;
- (2) the owner of the subject property allows for the permanent drainage of those parcels through his/her property;
- (3) the drainage system is designed to be minimally visible on the bluff face.

### VISUAL QUALITY POLICIES

**Policy 9.1** The existing views to, from, and along the ocean and scenic coastal areas shall be protected, preserved, and enhanced. This may be accomplished by:

- (1) Acquisition of land for parks and open space;
- (2) Requiring view easements or corridors in new development;
- (3) Specific development restrictions such as additional height limits, building orientation, and setback requirements for new development;
- (4) Developing a system to evaluate view impairment of new development in the review process.

**Policy 9.3** All new development in the coastal zone shall provide underground utilities and the undergrounding of existing overhead utilities shall be considered high priority.

## **GENERAL PLAN- SAFETY ELEMENT**

### **COASTAL BLUFF DEVELOPMENT**

**Policy S23** Coastal Bluff Development Guidelines. The following guidelines shall be used to evaluate proposed development on coastal bluffs:

- a. Setbacks from the bluff edge shall be adequate to address long-term erosion and slope stability issues.
- b. Development, redevelopment, renovations, and additions on bluff top parcels shall be located and designed so that they will not be adversely affected by the long-term erosion of the adjacent cliff. A minimum period of 75 years shall be considered when evaluating the effects of bluff retreat over the life of a project. New development shall be placed at a distance away from the bluff edge such that the long-term erosion of the bluff will not seriously affect the structure during its expected lifetime.
- c. All development, redevelopment, renovations and additions on bluff top parcels shall be located and designed so that erosion of the bluff at the project site or other locations will not be exacerbated. This includes, but is not limited to, locating and designing structures and other improvements to prevent a substantial increase in water percolation, weight placed near the bluff edge, and drainage over the bluff edge and down the cliff face.
- d. For proposed new development which may become threatened by bluff erosion, coastal development permit conditions shall require demolition by owners in the event that failure of the structure due to future bluff erosion is deemed imminent by the City.

**Policy S24** Site- or Area-Specific Investigations of Coastal Bluff Retreat Rates. Evaluations of coastal bluff retreat rates and potential impacts of proposed projects shall be based on a site- or area-specific geologic investigation. These investigations shall determine the projected average rate of coastal bluff retreat (e.g., inches per year) based on an evaluation of historic and projected erosion rates.

- a. Past site-specific bluff retreat data derived from historical aerial photo review and other information may be considered when preparing estimates of future site-specific bluff retreat rates.
- b. Potential future accelerated rates of erosion and cliff material loss associated with climate change-induced sea level rise as identified in the most recent State projections must be considered. Exact future rates of accelerated coastal bluff retreat are unknown and will vary among location and over time, but are estimated, as of 2008, to average 12 inches per year, potentially accelerating to 1 to 3 feet per year in Santa Barbara if sea level rise progresses (URS 2008).
- c. Site-specific estimates of bluff retreat, as well as analysis of potential project effects and measures to address effects, shall be prepared by a Registered Geologist, Engineering Geologist or other similarly qualified individual, and are subject to approval by the City.

**Policy S25** Structural Setback from the Bluff Edge for Slope Stability. Bluff edge setbacks shall be adequate to address long-term erosion and slope stability issues. The required development setback from the bluff edge shall be determined in accordance with the Coastal Act, the associated California Code of Regulations provisions [such as Regulation § 13577 (h)], (The “Coastal Commission guidelines,”) and by an analysis that includes the most recent methodology used by California Coastal Commission staff. For example, methodologies include the California Coastal Commission memorandum entitled “Establishing Development Setbacks From Coastal Bluffs (2003), provided in Appendix B of the Safety Element Technical Background Report. Factors to be considered include determining bluff edge, slope stability/ factor of safety and long-term bluff retreat. Modifications to the prescribed setback calculation methodology and setbacks may be approved by the City to reflect site-specific geological conditions.

**Policy S26** Bluff Top Drainage. All new development of bluff top land shall have drainage systems carrying run-off away from the bluff edge and cliff to the nearest public street. In areas where conveyance of runoff landward is constrained by conditions such as engineering feasibility, cost and/or requirements for easements, and where additional fill or grading is inappropriate or cannot accomplish landward drainage, private drainage systems may be permitted if each of the following criteria are met:

- a. The drainage system is designed to be minimally visible on the cliff face and shall be maintained to remain minimally visible for the life of the project;
- b. The drainage system is designed and constructed to operate properly with only minimal maintenance requirements;
- c. The drainage system is designed and maintained to be effective for the life of the project including periodic replacement of the drainage system to adapt to bluff erosion as needed; and
- d. The drainage system will not result in accelerated erosion of the bluff.

*Possible Implementation Action to be Considered*

S26.1 Consider consolidated drainage systems where appropriate and feasible. Consolidated drainage systems could be sized to accommodate run-off from nearby and similarly drained parcels if a consolidated system is found to be most

beneficial, efficient, and will not result in environmental damage, and property owners are in agreement regarding the installation and maintenance of a consolidated system.

**Policy S27** Loading. Development that will result in excessive weight to the top of the bluff (e.g., large structures, swimming pools, artificial fill, non-native vegetation etc.) should be discouraged.

**Policy S28** Improper Vegetation. Where feasible, existing vegetation that requires large amounts of water should be replaced with native, drought-tolerant vegetation.

**Policy S29** Improvements to Threatened Coastal Properties. The City recognizes the need for owners of threatened coastal properties to perform maintenance and modest improvements to threatened principal structures (primary living quarters, main commercial buildings, and functionally necessary appurtenances to those structures, such as septic systems and infrastructure) and other facilities. City goals are to minimize exposure of substantial new improvements to hazards of bluff retreat and avoid the need for installation of environmentally harmful coastal protection structures that could be requested to protect such improvements. To meet these goals, the following guidelines apply:

- a. Protection for existing structures shall first focus on techniques that avoid use of coastal protection structures including use of non-intrusive techniques such as drainage control, installation of drought tolerant landscaping, construction of cantilevered grade beam foundations, etc.
- b. Demolition or relocation of threatened principal structures and facilities further inland on parcels shall be favored over installation of coastal protection structures.
- c. Coastal protection structures shall not be allowed for the sole purpose of protecting accessory structures or landscape features (e.g., garages, carports, storage sheds, decks, patios, walkways, landscaping).
- d. The siting of new major improvements shall consider accelerated rates of coastal bluff retreat associated with climate change-induced sea level rise as projected by the State of California, and an area- or site-specific geologic investigation that accounts for climate change effects.
- e. For proposed new structures that have the potential to be threatened by bluff erosion, coastal development permit conditions shall require demolition by owners in the event failure due to future bluff erosion is deemed imminent by the City.

**Policy S30** Development on the Cliff Face. With the exception of drainage systems identified in Policy S26, no development shall be permitted on the cliff face except for engineered staircases or access ways to provide public beach access and pipelines for scientific research or coastal dependent industry. To the maximum extent feasible, these structures shall be designed to minimize alteration of the bluff and beach.

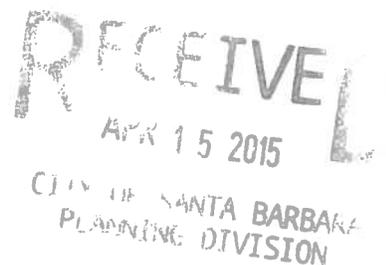
Adam Simmons -- Consulting Geologist  
 CERTIFIED ENGINEERING GEOLOGIST & HYDROGEOLOGIST-CEG #2015 PG #6234 HG #509

April 14, 2015

Mr. Jacques Habra  
 c/o Peter Becker Architect

Attn: Mr. Tom Henson & Ms. Valeri Schillberg

Re: *Geologic Investigation – Proposed Pool Project*  
 3425 Sea Ledge Lane  
 Santa Barbara, California



Dear Mr. Habra:

Pursuant to your request, I have examined the geologic conditions and construction plans prepared by John D. Oeltman (dated April 13, 2015) and architectural plans prepared by Peter Becker Architect (dated April 13, 2015) for the proposed pool to be built on the above described parcel. I have also reviewed my Preliminary Geologic Investigation Report prepared for the Property (dated November 28, 2012) and addendum letters for the proposed spa (April 17, 2013) and pool (October 19, 2014), and update letter for the proposed residence (dated July 15, 2014). The purpose of my investigation was to examine the possibility of constructing a pool southeast of the residence adjacent to the existing retaining wall, to determine the potential risks, if any, where the pool is situated adjacent to the descending slope.

The proposed pool will be constructed with its own self-supporting, independent caisson foundation design and not tied to the existing foundation systems for the retaining wall or proposed house addition. The structural design for the pool includes five drilled piles, including four for the pool and one for the spa. The piles are 30 inches in diameter and 40 feet in depth. The pool piles are spaced appropriately so as to create independent support for each pile. Water within the pool is roughly half the weight of the soil to be removed to install the pool. Therefore, construction of the proposed pool will not impact the existing retaining wall or stability of the slope since the weight of material to be retained behind the existing caisson supported retaining wall is being reduced and will not add excessive weight to the top of bluff (consistent with LCP Policy S27). Any weight of the pool structure will be supported by the proposed minimum 40 foot deep caissons. As designed, the new caissons will not interfere with the integrity of the existing caisson systems supporting the retaining wall or house.

A French drain system will be placed below the proposed pool. A 3-inch diameter minimum PVC schedule 40 system placed in 10 to 12 inches of gravel below the pool is recommended. The French drain will exit at a visible gravity fed downslope outfall location to the east of the pool so that any potential future pool seepage could be spotted and mitigated so as to minimize potential for saturation of the soil on the slope. Potential overflow will go to a 3 inch cover drain/cover box. Careful attention to the pool construction design has been proposed to reduce the potential for future pool leaks.

Measurement of past erosion on the slope suggests zero erosion over the past 48 years due to the presence of the existing retaining wall and rock revetment at the base of the slope (not to mention a

**Geologic Report: Habra Pool Project****April 14, 2015**

residence located below). Therefore a setback from the current existing top of the sea cliff has been determined to be zero feet. However, measurement of 1 inch per year retreat had been calculated on the neighboring property to the west (3427 Sea Ledge Lane) and used to determine a 75 year retreat rate without the presence of the retaining wall. Application of the site specific, conservative retreat rate of 1 inch per year (based on observations without a retaining wall west of the site) and a design life of 75 years (Santa Barbara County and California Coastal Commission Guidelines), the total theoretical sea cliff retreat for this site would be approximately 6.25 feet from the current top of bluff (from the sea wall). To create a conservative structural setback for the residential addition, an additional 7.75 feet was added to the 6.25 foot retreat (assuming no retaining wall) to provide a 15 foot residential structural setback from the top of slope. However, it is my opinion that the proposed pool may be placed within the residential structural setback given the low potential for retreat on the property, the presence of the existing caisson supported retaining wall, that the water of the pool is roughly half the weight of the soil currently being retained by the wall, and that the pool structure itself is designed to be on an independent caisson system that will not interfere with the existing caisson system of the house or the retaining wall. In my opinion, the addition of the pool structure and caisson foundation system will not impact the integrity or functionality of the existing retaining wall and therefore will not impact stability of the coastal bluff.

If accelerated erosion was to undermine the proposed pool in the next 75 years (unlikely with the existing retaining wall), there would be no safety concerns since the pool would be placed on its own self-supporting caisson/grade beam foundation. Based on the past findings, it is my conclusion that it is feasible to construct the proposed pool immediately behind the existing retaining wall.

If I can be of any further service to you on this or other geologic matters, please do not hesitate to contact my office.

Sincerely,



Mr. Adam Simmons  
 Certified Engineering Geologist & Hydrogeologist  
 State of California PG #6234 EG #2015 HG #509





# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 008-13  
3425 SEA LEDGE LANE  
COASTAL DEVELOPMENT PERMIT  
MAY 2, 2013

**APPLICATION OF RUSS BANKO, AGENT FOR JACQUES HABRA, 3425 SEA LEDGE LANE, APN 047-083-012, A-1/SD-3 ZONES, LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL-1 DU/ACRE (MST2012-00135)**

The subject project is a proposal for alterations and additions to an existing one-story, 1,589 square foot, single-family residence with detached garage, located on a 17,490 square foot blufftop lot in the Hillside Design District. The proposed construction consists of 1,566 square feet of one and two-story additions, a 449 square foot basement; demolition of the existing garage to be replaced with a 451 square foot, two-car garage and a 220 square foot, one-car carport and a 1,211 square foot "as-built" deck with above-ground spa. Proposed grading includes approximately 340 cubic yards of cut, 180 cubic yards of fill and 160 cubic yards of export. The resultant residence of 3,826 square feet (which includes a 100% basement floor area reduction) is 87% of the guideline floor-to-lot area ratio (FAR).

The discretionary application required for this project is a Coastal Development Permit (CDP2012-00004) 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 Act 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, April 25, 2013.
2. Site Plans
3. Correspondence received in opposition to the project:
  - a. Joyce and Leon Lunt, via email
  - b. Chris Krach-Bastian, via email
  - c. Paula Westbury, Santa Barbara, CA

**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 because it does not result in any adverse affects related to coastal resources, including views and public

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access and the proposed addition is located outside of the 75-year seacliff retreat line 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 addition is compatible with the surrounding bluff top neighborhood, will not impact views from public view corridors, will not impact public access, is not an archaeologically sensitive site and would improve potential safety and drainage hazards on the bluff as described in Section VI.B. 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. The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
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.

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 May 2, 2013 is limited to a remodel and addition to an existing single-family residence resulting in a 4,275 square foot two-story residence including a 449 square foot basement, a 451 square foot garage, a 220 square foot carport and a 1,211 square foot "as-built" deck with above-ground spa and the 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. **Development Restrictions.** Habitable structures are prohibited within the 15-foot "structural setback," as noted on the plans and as recommended by Adam Simmons in the report titled "Seacliff Retreat Project - Addendum," dated April 17, 2013. Minor improvements, including the current extent of the "as-built" redwood deck, "as-built"

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above-ground spa (set back the recommended 6.25 feet from the top of the retaining wall), drought-tolerant landscaping and limited hardscape improvements, are allowed between the existing retaining wall and the 15-foot "structural setback," as noted on the plans.

3. **Parking.** Add and maintain a "no parking" sign in the designated Fire Department turn-around area located between 3425 and 3407 Sea Ledge Lane.
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.
5. **Maintenance of Drainage System.** Owner shall be responsible for maintaining the drainage system in a functioning state. Should any of the project's surface or subsurface drainage structures fail 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.
6. **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).
7. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
8. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. 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 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.
9. **Sewer Connection Requirement.** Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in

writing that the City sewer main is operable and available for such a connection. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.

10. **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.
  11. **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. **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. **Landscaping on Bluff Top Properties.** The Single Family Design Board (SFDB) shall review any new landscaping, irrigation and/or improvements to said landscaping north of the top of bluff setback. Per the Geologic Investigation prepared by Adam Simmons, dated November 28, 2012, the existing deep rooted, drought tolerant plants should be maintained on the sloping areas of the property in order to minimize the potential for over-saturation and erosion. Thick and deep rooted plant varieties help to stabilize the slope and keep it in a state of under-saturation. The re-vegetation program (in areas where the existing vegetation is sparse or to be removed) should be implemented as soon as practical after the construction, if necessary. Minimize the planting of high water use plants (including lawn) within 20 feet of the slope south of the retaining wall. 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.
  2. **Drainage.** Drainage improvements shall be shown on the Landscape Plan and Site Plan and shall be installed per the Drainage Analysis and Hydrology Report prepared by LaChaine & Associates, dated November 12, 2012, and the Bio-Retention Planter Box

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calculations, dated March 11, 2013, and the Geologic Investigation prepared by Adam Simmons, dated November 28, 2012, to include:

- Installation of a 60 square foot bioretention planter box, to aid in removing sediment from storm water runoff generated by the subject property, at the eastern corner of the property between the rock bench and the driveway.
  - Installation of two new site drains/drop inlets to the east side of the house pad.
  - All runoff water from impervious areas such as roofs, patios, decks, French Drains (for basement) and driveways shall be captured and directed via an impervious conduit to an appropriate disposal area. No surface water or captured subsurface water shall be allowed to pass in an uncontrolled manner onto the surrounding slopes below. The collected water shall be transported to the base of slope via the existing non-perforated drainage pipes.
3. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground, and to the extent feasible, shall not shed light beyond the property line.
- 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. **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. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan for treatment, rate and volume. The Owner shall comply with the Drainage Analysis and Hydrology Report prepared by Lachaine & Associates, Inc., dated November 12, 2012, and the Bio-Retention Planter Box calculations prepared by Lachaine & Associates, Inc., dated March 11, 2013, as described in Condition C.2. The new development will comply with the City's Storm Water Management Plan. 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 significant 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.
    - c. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle

weight rating of three tons or more entering or exiting the site. The Haul Routes shall be approved by the Transportation Manager.

- d. **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. **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 permits.
- b. **Design Review Requirements.** Plans shall show all design, landscape, exterior lighting, 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.
- c. **Conditions on Plans/Signatures.** The final 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 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:

_____		_____
Property Owner		Date
_____		
Contractor	Date	License No.
_____		
Architect	Date	License No.
_____		
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. **Preliminary Geotechnical Investigation.** All recommendations in the Preliminary Geotechnical Investigation Report prepared by GSI Soils, Inc. dated June 20, 2012 shall be incorporated into the project plans and specifications.

- 2. **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, 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 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
- 3. **Construction Storage/Staging.** A minimum width of 16' along the private Sea Ledge Lane shall remain clear and unobstructed for ingress/egress and emergency access during construction. The applicant shall provide 48 hour notice to adjacent neighbors if Sea Ledge Lane ever needs to be blocked for a temporary basis. 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 Transportation Manager with a Public Works permit. Said permit shall specify that workers are to park on the north side of Cliff Drive and be shuttled to Sea Ledge Lane.
- 4. **Construction Hours Limitation.** No construction shall occur on Saturday, Sunday, or 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.

- 5. **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 shall be installed at all access points to prevent tracking of mud onto public roads.
- 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.
- j. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.

- o. The engine size of construction equipment shall be the minimum practical size.
- p. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

6. **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. **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. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
4. **Site Maintenance.** The existing site/structure(s) shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.
5. **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

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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:

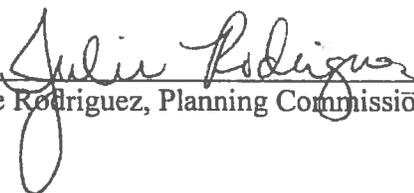
The Planning Commission action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

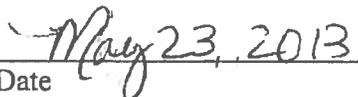
1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal 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 la

This motion was passed and adopted on the 2nd day of May, 2013 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.**

